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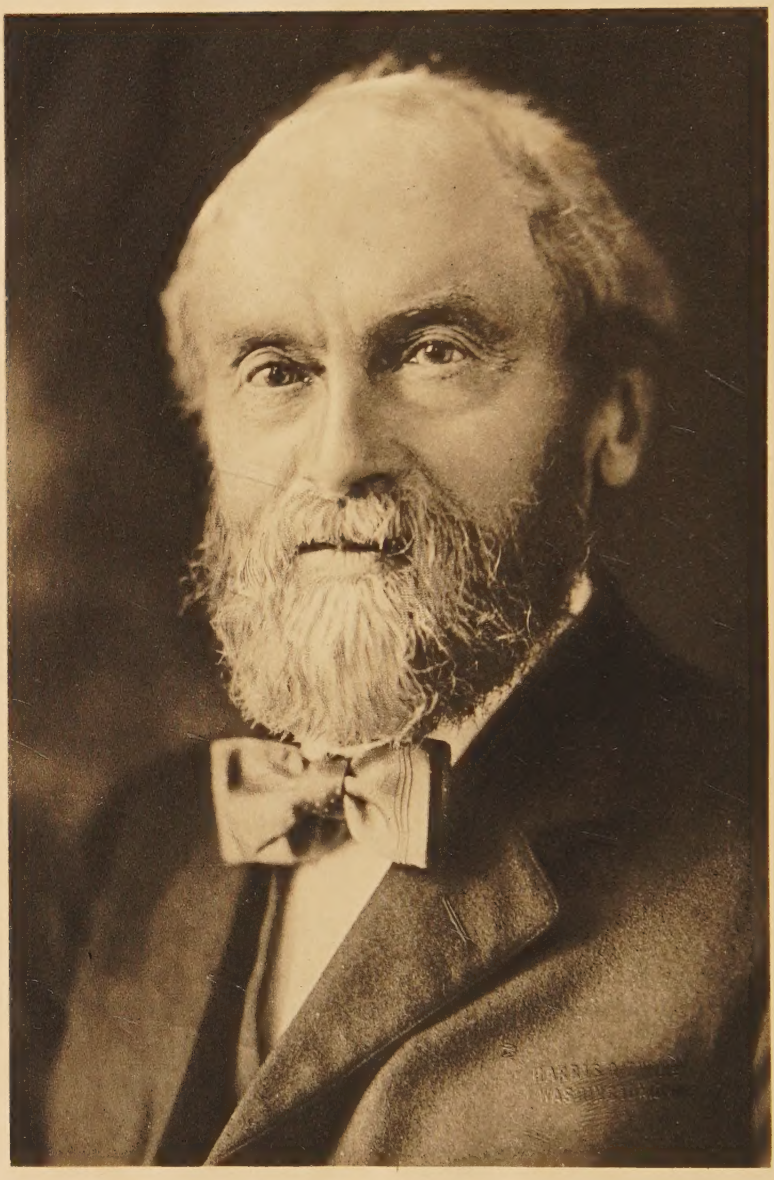

Lemuel E. Baldwin

SIMEON E. BALDWIN

History of Connecticut

In Monographic Form

NORRIS GALPIN OSBORN
EDITOR

VOLUME ONE

20908

THE STATES HISTORY COMPANY
NEW YORK
1925

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Publication Office
156 Fifth Avenue, New York, N.Y.
U. S. A.

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PREFACE

Some wise philosopher has said, in so many words, that to secure immortality with the least effort one need but keep a diary of daily experiences, impressions, achievements, disappointments, events and rumors from the cradle, so to speak, to the grave, to be released one hundred years after. If some one or more of the sons of Connecticut had formed the habit during each successive generation—as Gideon Wells kept alive his diary during the administration of Abraham Lincoln—how simple a task it would be, relatively, to write a History of Connecticut! The evidence by which to measure men and the effect of their labors in all of the walks of life would be so fully recorded that from it could be extracted the philosophy which leads to understanding —to the production of history.

The History of Connecticut in Monographic Form can lay claim to originality in its conception. As it is now completed it could not have been produced otherwise with anything like its obvious value. Certainly, its Editor would have lacked the conceit to undertake its preparation. It is the gift of no one person to know everything about the community in which he was born and has passed his life; about the friends he has gathered about him or the children whom he has brought into the world. There are those who, like the Editor of these volumes, question the ability of any one man to do justice to a theme so far reaching and varied, so searching and baffling in its attempt to catch up the strands of human activity and weave them into a complete and comprehensive fabric in a manner satisfactory to the

educational purpose in view. Certainly, it cannot be done within the limits and limitations set to ordinary intelligence in research undertakings. Only geniuses are built for such a task whose sacrifice of all other ambitions must be complete, and geniuses are rare.

The difficulties of recording the complex elements of human endeavor and sacrifice, which constitute the history of a community, are greater in large than in smaller states. That is obvious. But the comparative smallness in area and population of the State of Connecticut offers but little relief to the forces of research, analysis and assimilation so remarkable have been her victories over nature, so inventive the genius of her people, so dramatic her perseverance in the face of obstacles that try men's souls, so sensitive her nature to the demands of an expanding civilization, so intrepid her response to the needs of subsistence—spiritual, intellectual and physical—so confident of her strength, so serene her faith and so radiant her vision of life! The architect of her own fortunes, she laid the foundations of her social and political structure with such inherent adaptability and assurance that the states which were formed later had at hand plans and specifications ready for practical employment. If this be boasting, let the most be made of it! If this be history, let it be recorded fearlessly and proudly! For evidence of its truth let the thousands of families testify who, of Connecticut origin, have carried to every section of the country the stimulus they inherited from their native forbears.

Even in these closely written and carefully edited volumes the story of Connecticut life is incomplete. There are many chapters that might have been added, of less importance but of value, nevertheless, in assess-

ing the variety and substance of Connecticut character. It became necessary to omit them. But the field covered by writers experienced in the subjects they have treated is startling in its human interest. They have given more than the knowledge which they have acquired by long study and keen powers of observation, by interchange of thought and challenged assertions. They have added the inspirational note. Such are the rewards of sympathetic specialization in which the reader shares. It has not been left to one mind to present the problems provoked by spiritual yearnings and those cropping out of industrial energy and initiative. To each Cæsar has been rendered the topic which is Cæsar's. As a result a history in monographic form has been written and compiled which offers a clear and comprehensive understanding of what Connecticut is in her major achievements, and why.

By common consent, for example, no citizen of the State is better equipped by heritage, scholarship and sympathy than Simeon E. Baldwin to tell the exhilirating story of the Colonial period from which have sprung traditions, practices and convictions that have made a profound impression upon the world at large. The spiritual life of the State receives reverent treatment at the hands of Dr. Goddard and Father Duggan. The history of agriculture as written by Dr. Jenkins, whose life has been identified with its scientific development, possesses the strong flavor of romance. Mr. Chandler presents for the first time the complete review of the State's industrial development. Professor Stanley T. Williams of the Department of English Literature at Yale University marshalls before the reader an array of facts which have been lost sight of in the nervous

demands of bread winning. He escorts us to a land of all but forgotten memories, and bids us to be proud of our literary heritage. Mr. Wadhams reviews the slow development of an ever widening understanding of sound economics as revealed in improved methods of taxation and finance. From the pen of Walter Camp comes the last of his contributions to the study of athletics. Mrs. Mitchell deals with the various phases of social life and customs in a spirit which gives one a greater familiarity with scenes upon which the curtain fell long ago; from Professor Brown the first recorded account of an eclipse of the sun by the moon with New Haven the center of scientific observation.

Whether one turns to Dr. Steiner for the history of medical practice or to Mr. Hewitt for that of the bench and bar, one detects the fascination of the writer for antiquarian research. The important service of such men as Mr. Godard, state librarian; Mr. Holcombe, veteran leader in the life of insurance, Dr. Winslow, the student of the public health; Dr. Gordy, a striking figure in the educational life of the State, and his distinguished collaborator, Dr. Ames; Mr. Perry, the first vice-president of the Constitutional Convention of 1902, Col. Charles W. Burpee of military lineage and service, Mr. Countryman, a student of transportation economics, Dean Capen, an authority on institutional life, and Charles Hopkins Clark, the able and veteran editor, who, with the aid of Mr. Hill and others, has made so admirable a survey of state journalism. Mr. Harwood, a guardian of the savings of the industrious and thrifty, needs but to be recalled to entitle their chapters to the respectful consideration of the people of this God-fear-

ing, law-abiding and liberal-minded little commonwealth.

It is with a strong sense of pride that I affectionately acknowledge the valuable co-operation of these gentlemen in the preparation of these volumes. It has been a rare privilege indeed to have had and to hold such a comradeship during these many months, and to have experienced the joy and inspiration of it. The fruits of our labor are before you.

NORRIS GALPIN OSBORN.

NEW HAVEN, *June*, 1925.

COLONIAL PERIOD

By Simeon E. Baldwin

Governor, born New Haven, Connecticut, February 5th, 1840; son of Roger Sherman and Emily (Perkins) B.; A. B., Yale 1861, A. M. 1864; studied law at Yale and Harvard; L. L. D. Harvard 1891, Columbia 1911, Wesleyan 1912, Yale 1916; admitted to bar, 1863; married Susan Winchester, Boston 1865; instructor law, 1869 to 1872; professor of law, 1872, Yale; associate justice, 1893–1907; chief justice, 1907–1910, Supreme Court of Errors of Connecticut; governor of Connecticut, terms 1911–1913, 1913–1915; member of commission to revise general statutes, Connecticut, 1873, and for simplifying legal procedure, 1879; member of the commission and drew report for better system of taxation, 1885; chairman to revise state taxation system, 1915–1917; president American Bar Association, 1890; American Social Science Association, 1897; New Haven Colony Historical Society 1884–1896; International Law Association, 1899–1901; American Historical Association, 1905; Association American Law Schools, 1903; Connecticut Society of Archaeological Institute of America, 1907–1919; Connecticut Academy Arts and Sciences, 1905–1918; American Political Science Association, 1910; American Society for Judicial Settlement of International Disputes, 1911–1912; Associate, Institute International Law, 1921; member American Philosophical Society, American Antiquarian Society, National Institute of Arts and Letters; corresponding member Massachusetts Historical Society, Colonial Society of Massachusetts, L'Institut de Droit Comparé; director Bureau of Comparative Law of American Bar Association, 1907–1919. Author: Baldwin's Connecticut Digest; Baldwin's Cases on Railroad Law, 1896; Modern Political Institutions; 1898 (co-author), Two Centuries Growth of American Law, 1901; American Railroad Law, 1904; American Judiciary, 1905; The Relation of Education to Citizenship, 1912; Life and Letters of Simeon Baldwin, 1919; The Young Man and the Law, 1919. Address, New Haven, Connecticut.

Chapter I

THE SOCIAL COMPACT—TITLES AND ORGANIZATION—FORMS OF GOVERNMENT—BEGINNINGS OF CONNECTICUT

THE history of Connecticut is the history of free government. The office of government is to govern. The office of free government in any nation, is to govern by the free assent of the nation, expressed in appropriate form.

That all government proceeds from the consent of the people who are to be governed by it has been for many centuries a widely accepted proposition of political philosophy. It has been often accepted in theory and denied in practice. In imperial Rome, for instance, it was treated as a settled rule, but in connection with another of equal force, that whatever was the pleasure of the Emperor was the supreme law, since the people had delegated to the Emperor all their power.

John Locke, one of the leading philosophers of England, was closely associated with those who were especially active in promoting American colonization in the seventeenth century. At one time he was Secretary of the Board of the Lords of Trade and Plantations, and drafted a scheme of government for Carolina in the nature of a Constitution. He contemplated the creation of a thoroughly aristocratic republic whose power must be largely in the hands of noblemen holding hereditary orders. An order of nobility was provided

for in which ownership of land was largely vested with hereditary title. The principal nobles were styled "caciques." A similar charter had been issued still earlier to Sir Edmond Plowden under the style Earl Palatine of New Albion, who also could institute inferior orders of nobility. This gave rise to a feeble settlement which soon died out.

The people of Connecticut feel an honest pride in recollecting that they were a free commonwealth one hundred and fifty years before the American nation came into being. Nor did they merely precede it in the simple representative system by which one branch of the legislature stood for the town and the other for the people, which has given the earliest and best example in American history of that balance of power which has been preserved in the Congress of the United States by a Senate of equal States and a House of Representatives proportioned to the population.

Historians generally concede that the first written constitution of representative government ordained by men was agreed upon by the inhabitants of the three towns of Windsor, Hartford and Wethersfield in 1639. There had been before agreements for the future organization of a body politic, like that signed on board the Mayflower, in Plymouth Bay; there had been constitutional forms in the Old World, rising gradually and successively into life; there had been speculative plans for Utopian republics, framed by philosophers; but never had a company of men deliberately met to frame a social compact for immediate use, constituting a new and independent commonwealth, with definite officers, executive and legislative, and prescribed rules and modes of government, until the first planters of Connec-

ticut came together for their great work on January 14th, 1638–9.

For that, they solemnly declared, we "do therefore associate and conjoin ourselves to be as one public State or Commonwealth."

What right had they to assume to exercise a power so great?

Every advance in the law changes the law. It makes something unlawful that before was lawful, or something lawful that before was unlawful. The "Fundamental Orders" of 1639 purported to create an independent government in and for Connecticut. She needed something better than she had to guard her liberties, and under existing circumstances she was forced, herself, to supply the want. For ten long years there had been no power of Parliament by which such a government could have been created. The eleven years from 1629 to 1640 are known in the history of England as the Tyranny. During the whole period no parliaments were called. The King could have granted no charter which would have been likely to satisfy the wants of an English colony. What was needed was, in the phrase of our times, the setting up of a "self-governing dominion."

Connecticut created, for herself, that which, if events were propitious, might stand alone and unaided. If the fast-coming civil war went against the King, it might find a sanction in Parliament. If the monarchy weathered the storm, the new King might recognize and confirm it.

The men from whom the "Fundamental Orders" came were of the class of Englishmen of which John Pym was the great leader. It was he who originated

what Green, in his "Short History of the English People," calls the doctrine of "Constitutional proportion." To him the main organ of political power was the House of Commons. The House of Lords could not be suffered to claim an equal right in legislation. The King could not be permitted to override its will. The house of legislation composed of representatives of the people, must have the power of the people; and the people had all power.

Under the influence of such theories of government the "Fundamental Orders" were framed and adopted. They provided that "the supreme power of the Commonwealth" should be in the General Assembly, which might pass laws touching any matter that concerned the good of the Commonwealth, except election of magistrates, which was to be done by the whole body of Freemen.

For a hundred and eighty years this continued to be the policy of Connecticut. She wished, and she had, a Governor with little power; a legislature of immense power. The courts were creations of the legislature, and by the legislature their judgments could be set aside.

The Colony did indeed possess, from as early a date as 1650 its *Magna Charta*. It is placed at the beginning of the Ludlow code, adopted in that year, and was long one of the foundation stones of our legislative structure. As originally drawn, this guaranty of the rights of the individual against the State was thus expressed:

> Forasmuch as the free fruition of such Libberties, Immunities, Privileges, as Humanity, Civillity and Christianity, call for, as due to every man in his place and proportion, without Impeachment and infringement, hath euer beene and euer will bee the Tranquillity and Stabillity of Churches and Commonwealths, and

SIGNING OF THE FUNDAMENTAL ORDERS

Mural decoration in the Supreme Court Room, State Library, Hartford. Albert Herter, Artist. The central figure represents Thomas Hooker "The Light of the Western Churches." Founder of the Colony of Connecticut.

the denyall or deprivall thereof, the disturbance if not ruine of both:

It is therefore ordered by this Courte and Authority thereof, that no mans life shall bee taken away, no mans honor or good name shall be stained, no mans person shall be arrested, restrained, banished, dismembered nor any way punnished; no man shall bee deprived of his wife or children, no mans goods or estate shall bee taken away from him, nor any wayes indamaged, vnder colour of Law or countenance of Authority, vnless it bee by the vertue or equity of some express Law of the Country warranting the same, established by a Generall Courte, and sufficiently published, or in case of the defect of a Law in any perticular case, by the word of God.[1]

These stately and sonorous declarations, fulfilling the office of a Bill of Rights, were substantially copied from the law of Massachusetts, known as the Body of Liberties. They came at the beginning of the first code of Massachusetts, adopted nine years before. Nathaniel Ward of that Colony was their author, a minister who had been bred originally to the law.

But the authority which set up these guaranties could alter or repeal them. Without any formal repeal, it could practically disregard them. It repeatedly did. How far it could go in such directions was a matter resting in its own discretion.

Chief Justice Swift published in 1795 a general statement of the laws of Connecticut. He regarded the Fundamental Orders of 1639 as occupying, when originally adopted, the position of a Constitution, and as being confirmed in substance by the colonial charter obtained in 1662 from Charles II. But he considered questions as to the conformity with it of laws passed by the General Assembly as to be answered in all ordinary cases only by the General Assembly itself.

[1] Colonial Records of Connecticut, 1636–1665, p. 509.

"The legislature," he remarked, "must be considered as the supreme branch of the government. Previously to their passing any act, they must consider and determine whether it be compatible with the Constitution. Being the supreme power, and bound to judge with respect to the question, in the first instance, their decision must be final and conclusive. It involves the most manifest absurdity, and is degrading to the legislature, to admit the idea, that the judiciary may rejudge the same question which they have decided; and if they are of a different opinion, reverse the law, and pronounce it to be a nullity. It is an elevation of the judiciary over the heads of the legislature; it vests them with supreme power, and enables them to repeal all the laws, and defeat all the measures of the government. . . ."

"The legislature are not under the controul or superintendence of the judiciary—if they pass laws which are unconstitutional, they are responsible to the people—who may in the course of elections dismiss them from office, and appoint such persons as will repeal such unconstitutional acts. On this power of the people over the legislature depends the security against all encroachments, and not on the vigilance of the judiciary department." [2]

These positions were not sustained by public opinion. The judiciary asserted, and finally maintained, its right to determine the constitutionality of any statute which might be attacked before it.

Ten years before, indeed, the Supreme Court of Errors had ruled against the validity of a grant by the General Assembly of land which the Assembly had granted before to other parties. It was held void, so far as it purported to disturb vested rights.[3]

Locke's Constitution for Carolina, as well as his *Two Treatises of Government,* published in 1690, show that those accepting the Social Compact theory, as Locke did, were not agreed as to all its corollaries.

A Constitution is not to be created off hand; it re-

[2] Swift, System of the Laws of Connecticut, I, 52, 53.
[3] The Symsbury Case (1785), Kirby's Reports, 444, 447, 452.

quires close study. Its form, to make it lasting, must be consistent with the principle of evolution.

It is the glory of Connecticut that she made for herself the first real Constitution, in the modern sense, known to mankind. It was carefully drawn and skilfully worded. It was built to last.

The oldest of American State Constitutions is that of Massachusetts. Its fundamental quality is that it rests on a Social Compact, and opens by stating that theory in plain terms. It declares that "the body politic is formed by a voluntary association of individuals; it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people that all shall be governed by certain laws for the common good."

The eleven "fundamental orders" which were thus adopted, provided for an annual election by ballot for Governor and not less than six other magistrates, the latter to be chosen only from a list of persons put in nomination six months before at the preceding session of the legislature, at which the representatives from each town might nominate two, and the Court might add others, if thought fit. The legislature was to meet twice a year, in Spring and Fall, and each town could send three or four deputies, as it pleased, to be elected for each session by ballot at town meetings. The Assistants sat in this body, and four of them were necessary to give it a quorum. The Governor was the presiding officer, with a casting vote in case of a tie. New towns were to send such number of deputies as might be thereafter fixed by law in each case. "A reasonable proportion to the number of Freemen that are in the said Townes being to be attended therein." The Governor

was the presiding officer, and there was but a single chamber.

The deputies might meet before the session of the legislature opened, to consider any question as to their own elections, and "to advise and consult of all such things as may concerne the good of the publicke." This gave them an opportunity to compare their views and plan action without the overawing presence of the Governor and Assistants.

In the General Court was vested "the Supreme Power of the Commonwealth."[4] It was to make laws, lay taxes, admit freemen, dispose of public lands, call all magistrates and inferior courts to account for any misdoing, "and also may deale in any other matter that concerns the good of this comonwealth excepte election of magistrates."

Forms of oath were prescribed for the Governor, magistrates and constables. No mention is found in any of them of any duty to the British crown. The Governor was to swear that he would "mayntayne all lawfull privileges of this Comonwealth; as also that all wholesome lawes that are or shall be made by lawfull authority here established, be duly executed; and will further the execution of justice according to the rule of God's word."

This daring spring into political independence could only have proceeded from men long accustomed to some self-created form of public organization. Such a form

[4] Dr. Bronson in Vol. III of the New Haven Colony Hist. Society Papers, p. 317, takes the view that only the General Courts which might be summoned by the freemen on the neglect or refusal of the Governor and Assistants, and in which the freemen only sat, were given this supreme power; but does not seem to me warranted by the terms of the 10th Order, read as a whole.

was Congregationalism. The same full sense of the inherent rights of man, the same audacity, one might almost say, that led the Independents to constitute churches and ordain ministers of religion by no authority but their own, not unnaturally led them also to feel that they could set up civil government in the same simple way.

There were several alterations of the Constitution made from time to time. The quorum of the Assistants at a General Assembly was reduced in 1644, by a simple order of the Court, from four to three, and a still more important provision added, that "no act shall passe or stand for a law, w^{ch} is not confirmed both by the major part of the said magistrats, and by the major p^{r}te of the Deputyes there p^{r}esent in Court, both Magistrats and deputyes being allowed, eyther of them, a negatiue voate." [5]

Another material change was made by a resort to a *referendum* for the decision of the people.

The Governor could not be re-elected for a second term, immediately succeeding the first. It became the custom to elect the Governor of one year, as Deputy Governor for the next, and at the expiration of that, make him Governor again, and relegate his predecessor to the position of Deputy Governor; usually continuing this alternation between the two men as long as they continued in life and health. John Winthrop, Jr., however, proved so admirably fitted for the first office, that towards the close of his second term in 1654 the General Assembly proposed to the freemen that all restriction on a immediate reelection be abolished, directing "the Secretary to insert the same in the warr^{ts} for y^{e}

[5] Col. Rec., I, 119.

choice of Deputies, and request the return of y^e^ remote Plants: y^t^ vse to send Proxies, at y^e^ Election, by their Deputies. And it is desired that their proxies may be ordered according to what may be concluded on about y^e^ ord^r^ forementioned." [6]

The freemen accordingly, at the next Court of Election, voted "that y^e^ perticular in y^e^ 4th Law, respecting the choice of the Gouerno^r^, should be alt^r^d, and that for future there shal—be liberty of a free choice yearely, either of y^e^ same person or another, as may be thought meet, without p^r^iudice to y^e^ law or breach thereoff." [7] Gov. Winthrop was thereupon re-elected, and continued in office until his death in 1676.

This self-appointed Constitution of 1638–9 was in good keeping with the days that soon followed its adoption, of open contest on the soil of England between King and people for the principles of free government. Hampden had already refused to pay the ship-money to the Crown, and stood his trial. Two years later Strafford was impeached and executed, and in 1642 the civil war began.

The restoration of the Stuarts in 1660 made it the dictate of prudence to endeavor to secure the confirmation of the Colonial government, by the new sovereign, and Connecticut was fortunate in then having that same Governor, for whom she had been ready to alter her Constitution, the year before. Winthrop was a man of great ability and family influence, and to his care the matter was virtually entrusted, although a committee of eight was appointed to advise him.[8]

We have a jingling history of the grant of the char-

[6] Col. Records, Vol. I, p. 346.
[7] Id., 347.
[8] 1 Col. Rec., 367.

ter, in homely rhymes, written in the next century by Gov. Roger Wolcott, and I will quote a few of the lines.

"The sages of Connecticut do meet
To pay their homage at their prince's feet:
To whom they seek to hasten an address,
To shew their duty and their joy's excess.
Learned Winthrop then, by general consent,
Sat at the helm, to sway the government;
Who prudently the people doth advise,
To ask the King for charter liberties.
All like his counsel well: and all reply
Sir, you must undertake our agency,
For there is none but you, we may expect
Can make the thing you counsel take effect."

The commission is accepted, and Winthrop pleads the cause of the infant Colony, before the King in Council. The beauties of our scenery, and loyalty of our people are painted in bright colors, and at the close the King graciously gives this response:

"Be it so then, and we ourself decree,
Connecticut shall be a Colony;
Enfranchised with such ample liberties
As those, their friends, shall best for them devise.
And farther know our royal pleasure thus
And so it is determined by us: :
Chief in the patent, Winthrop, thou shalt stand,
And valiant Mason place at thy next hand,
And for the chief senators and patentees,
Take men of wealth and known abilities;
Men of estates and men of influence,
Friends to their country, and to US, their prince." [9]

This charter, received and joyfully accepted by the General Court in 1662, at once supplanted the original Constitution of 1638–9. It has sometimes been said

[9] Mass. Hist. Coll. (1794), Vol. III, pp. 262, 297.

that it only gave to its provisions the stamp of authority, for few of them were essentially changed; but changes there were, and not unimportant ones, and thenceforth the charter was the expression of our supreme law.

It extended or confirmed the bounds of Connecticut to the sea on the south, and to the South sea on the west. The Colony of New Haven, thus ignored, when she abandoned the struggle for existence three years later, brought none of her laws to add to those of the new government.

The original Constitution prescribed but two branches of government, the executive and the legislative; nor did it draw any very distinct line between the two. The legislature might create judicial tribunals, but they would have such powers only as it might delegate. For the rest the General Court would remain a Court both to make laws and to administer them. The charter in these respects made little change.

It continued in office the existing Governor, Deputy Governor, and Assistants, until the freemen should have an opportunity to choose their successors.

The old Constitution made it the duty of the Governor to issue writs to summon the freemen to chose deputies to the two regular semi-annual courts, and gave him power, with the consent of a majority of the Assistants, to convoke a special session of the legislature. Should he fail to issue such writs, or to call a special session, when there was good cause for one, a majority of all the freemen in the Colony might petition the Governor and Assistants so to do, and in case of their neglect or refusal, might themselves order the constables to warn the freemen in each town, that a Court would be held on a day named, and on such day hold a Court and ap-

point a moderator. By an amendment to the Constitution, voted by the freemen at the Court of Election in 1654, in the absence of the Governor and Deputy Governor, a majority of the Assistants could call any General Court, and choose a moderator.[10]

The Governor was the moderator of the legislature, if present, unless he had neglected or refused to convoke it without due cause.

The charter slightly increased the powers of the Governor. Neither freemen, nor the Assistants, could thereafter convoke the legislature, under any circumstances. He only, or, in case of his sickness or absence, or by his consent, the Deputy Governor, could summon either a General Court of all the freemen, or a General Assembly of the Assistants and deputies; and no General Assembly could be held without his presence, or that of the Deputy Governor, and at least six of the Assistants. He was not, as in the original Constitution, given a casting vote in case of a tie, but this power was very soon re-established by a law found in our printed code of statutes.

The Constitution had provided that no General Assembly could be adjourned or dissolved without its own consent. This provision was not contained in the charter, in deference, no doubt, to the English practice by which the Crown prorogued or dissolved Parliaments at pleasure.

The change by which only the Governor or Deputy Governor could convoke the legislature was one of great importance, for the legislature was the life of the Colony, and little or nothing could be done without its authority. Thenceforward the very existence of the

[10] Col. Rec., I, 256.

commonwealth depended on the presence and health of these officers, and on occasion of the death of either, the necessity of supplying his place by a new election was immediate.[11]

Semi-annual sessions of the General Court were to be had, as before, but the charter seems to contemplate more decidedly than the Constitution a preliminary assemblage on these occasions, of all the freemen, in person, "then and there to consult and advise in and about the affairs and business of the said company." This assemblage is described as "a general meeting or assembly," or a "general court and assembly," in apparent contradistinction from the "General Assembly." It would seem as if the freemen's meetings were to give advice to the General Assembly, and to elect the Governor, Deputy Governor, Assistants, and such other officers as the laws might prescribe; but that in the General Assembly itself the freemen could only participate by their deputies, sitting with not less than six of the Assistants, under the presidency of the Governor. The deputies were freemen of the Colony, "(not exceeding two persons from each place, town or city), who shall be from time to time thereunto elected or deputed by the major part of the freemen of the respective towns, cities, and places, for which they shall be elected or deputed."

It will be observed that the number from each town, which by the Constitution of 1639 might be four, was, under the charter, restricted to not exceeding two, and this although the development of some of the towns into cities was looked on as not improbable.

On the other hand the number of Assistants, which

[11] See Gershom Bulkeley's tract in 1 Conn. Hist. Society's Transactions.

had grown with the growth of the Colony from six to twelve, was established at the latter number.

It was not required, either in the old constitution or the charter, that the deputies should be inhabitants of the towns which they represented.

The charter apparently contemplates the General Assembly proper as mainly an electoral body. It had power to change the days for the general elections, or for any other meetings of any public character, to admit freemen, and to elect and constitute such officers as might be deemed necessary for managing the affairs of the Colony, and to fill vacancies occurring in any charter office. It had no other express power of legislation.

The real management of the Colony seems to me to have been meant by the charter to pass to the Governor and Assistants.

One of the earliest provisions of the charter is:

> That for the better ordering and management of the affairs and business of the said Company and their successors, there shall be one Governour, one Deputye Governour, and twelve Assistants, to be from time to time constituted, elected and chosen out of the freemen of the said Company for the time being, in such manner and form as hereafter in these presents is expressed, which said officers shall apply themselves to take care for the best disposing and ordering of the general business and affairs of and concerning the land and hereditaments hereinafter mentioned to be granted, and the plantation thereof, and the government of the people thereof.

This body of magistrates, called Assistants, had from the foundation of the Colony, been authorized to meet with the Governor or Deputy Governor, from time to time, as a "particular Court." [12] As such their func-

[12] Col. Rec., 1636–65, pp. 119, 150, 71, 81, 231.

tions were mainly judicial. Under the charter they soon came to be known as the Council.

The letters and instructions sent to the Colony from the King, from time to time, are generally addressed, from the first, to the Governor and Council, not to the General Court, or to the Governor and Company;[13] thus indicating that the home government looked to them as vested with the practical direction of affairs.

So in the charter, after provisions for General Courts, "the Governour or Deputy Governour, and such of the Assistants of the said company for the time being as shall be assembled in any of the General Courts aforesaid, or in any courts to be especially summoned or assembled for that purpose, or the greater part of them, whereof the Governour, or Deputy Governour, and six of the Assistants to be always seven," were authorized to constitute from time to time such Courts as they might think proper, to appoint and commission judges, and also any further executive officers whom it might be found desirable to have, to prescribe the punishments for any offences, to grant pardons; and in general to make "all manner of wholesome and reasonable laws," not contrary to those of England, "for the directing, ruling, and disposing of all other matters and things, whereby our said people, inhabitants there, may be so religiously, peaceably, and civilly governed, as their good life and orderly conversation may win and invite the natives of the country to the knowledge and obedience of the only true God, and the Saviour of mankind and the Christian faith, which in our royal intentions and the adventurers' free profession, is the only and principal end of this plantation."

[13] Col. Rec., 1665–7, p. 514.

All such laws, it was further provided, "as shall be so made by the Governour, Deputy Governour, and Assistents as aforesaid, and published in writing under their common seal," were to be valid and effectual.

The seal here referred to was certainly the seal of the Colony, and not any seal of the Governor and Assistants, and it may be that in this twice repeated declaration that the laws were to be made by them, reference to the concurrence of the freemen was omitted simply because of their less official dignity; or that it was thought this was sufficiently required by the provision that the Governor and Assistants could legislate only when assembled in a General Court, or implied in the provision as to the constitution of a quorum.[14]

The legislation of Parliament purports to be enacted by the King's most excellent majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons present in Parliament assembled, but this courtly phrase does not alter the fact that it is really the Lords and Commons that legislate, and the Crown that consents.

The Rhode Island charter, granted a year later, and in most of its provisions and even language almost the same, differs here in a marked manner. It does not contemplate any stated meetings of the whole body of the freemen, but provides for semi-annual meetings of the (ten) Assistants and deputies elected from each town, "to consult, advise, and determine, in and about the affaires and businesse of the said Company and Plantations," that the Governor, Assistants, and the deputies thus assembled, shall constitute the General Assembly, "and that they, or the greatest part of them

[14] See answers by the Governor and Company to Queries from the Board of Trade, sent over in 1748; Hinman's Antiquities, p. 362.

present, whereof the Governour or Deputy Governour, and sixe of the Assistants, at least to be seven, shall have" power to regulate elections, choose and commission officers, admit freemen, and exercise general legislative functions; all laws so made "by the Governour, Deputy Governor, Assistants and freemen" to be truly kept and executed.

But whatever the intention of its authors may have been, Gov. Winthrop's charter when it reached Connecticut, was read as if it made the deputies of the freemen as full a part of the legislature as they had always been.

In the recess of the General Assembly however, it was provided by an Act passed a few months after the receipt of the charter, that the Assistants should constitute a Council, of which five should be a quorum, "to act in emerg^{t} occasions that concerne y^{e} welfare of this Colony," and at the same session an order already made by the Assistants, respecting the Indians, was established and ratified." [15]

This Council at once began to act in important matters, such as receiving and naming new towns,[16] but two years later the Act under which they were constituted was repealed.[17]

In 1675 the Council was re-constituted as follows:

This Court for the prevention of whatever may fall out to prejudice the welfare or safety of this Colony or Government in the intervals of the Gen^{ll} Assembly's sitting for the want of persons sufficiently impowered to act in all matters or things that may be needful, it is now ordered that there shall be a Councill consisting of the Governo^{r}, Dep^{t} Governo^{r}, and Assistants with Capt^{n} Newbery, Capt^{n} Wells, Mr. John Wadsworth and Mr.

[15] Colonial Records, I, 397, 398.
[16] *Ibid.*, pp. 407, 411.
[17] *Ibid.*, p. 440.

Rich[d] Lord, or so many of them as shall be conveened, shall be a standing councill and shall have as full power as the Charter will alow, to consult, conclude and act all matters and things, emergent, according to their best discression, provided their acts are not inconsistent with our Charter, and what the aforesayd councill shall determine, they or any five or seuen of them, or agree vpon, the Governo[r] or Dep[t] Governo[r] being allways present, shall be deemed as good and affectuall to all intents and purposes as if the same were acted by the Generall Court, and this to stand till October Court next.[18]

At the May session of the next year a similar order was passed with some changes in the names of the private citizens who were joined with the Assistants, and without any limitation of time.[19]

Two years later, all names of private citizens were struck out of the commission, and the quorum reduced by the following order.

This Court doth now invite and appoynt the Governo[r], Dep[t] Gov[r] and Assis[ts] upon this place to be a standing councill to issue all such occasions and matters as shall fall in the intervalls of the Generall Court, provided the Governo[r] or Dep[t] Governo[r] and three Assistants be always present at such issues and conclusions.[20]

An evident jealousy of a standing council dictated this plan of reconstituting it, by a fresh act at frequent intervals.

Thus, in 1691, it is ordered that

This Court leaue it with the Governo[r] or Dep[t] Gov[r] and Councill, according to Charter, to hear and determine all affaires that are of necessity to be attended in the intervals of the Generall Court, provided they they rayse no money nor make no alteration of o[r] charter government.[21]

[18] Col. Rec., 1665–78, p. 261.
[19] *Ibid.*, p. 284.
[20] Col. Rec., 1678–1689, p. 15. Id., 1689–1706, p. 14.
[21] Col. Rec., 1689–1706, p. 62.

Acts of this general tenor,[22] sometimes directing deputies to be called into the Council, if necessary to make a quorum in the absence of Assistants, sometimes naming certain freemen to form part of it, and sometimes authorizing or directing the Governor to add four freemen, such as he might select, were passed at short intervals until far on into the next century. The Councils, thus appointed, ordinarily met several times during the recess of the Assembly; and transacted important affairs. Their doings were commonly reported to the next Assembly, and there approved.

In this semi-annual provision for such a body, we recognize the same cautious and liberty-loving policy which has made the British Parliament pass a new Mutiny bill each year, and forbids our Congress to make appropriations for the army for a longer period than two years.

This charter of Charles II. was so extraordinary in its breadth of grant, that the General Court might well call it, as they did, many years later, their "most precious inheritance," while the officers of the Crown, as time went on, regarded it with unfriendly eyes.

Shortly before the Revolution William Samuel Johnson, then our agent at Court, was told by Lord Hillsborough, the Secretary of State for the Colonies, that he thought Connecticut was "a very free Colony." "He said," writes Dr. Johnson to Gov. Pitkin, "he had read our charter with some attention, and knew what powers we had exercised under it; that it was very full and expressive, but there were such things as extravagant

[22] *Ibid.*, pp. 84, 180, 320, 399, 407, 442: Col. Rec. 1706–16, p. 7, 567: Col. Rec., 1717–1725, p. 125.

Riley's Portrait of King Charles II. The State Library, Hartford

grants, which were therefore void, and however great a latitude of expression was made use of in it, still there might be a doubt, perhaps, what would really pass by it, in legal construction; that he believed I would admit there were many things which the king could not grant, as the inseparable incidents of the Crown, &c.; and it might deserve consideration whether some things which King Charles had pretended to grant to the Colony of Connecticut were not of that nature, particularly the power of absolute legislation, which tended to the absurdity of introducing *imperium in imperio,* and to create an independent state.[23]

Had Lord Hillsborough been better acquainted with the laws passed and powers assumed from the earliest days, by the Colonial legislature, he would have had still less doubt that we were a "very free Colony," for the Assembly did not hesitate, when it thought fit, to override the limitations of the charter itself.

One of its provisions, to take a striking instance, was that the Governor, Deputy Governor and Assistants were to be annually elected, as before, by the majority of the freemen present at the day set for opening the May Session of the legislatures. As the three original towns of Windsor, Hartford, and Wethersfield, were contiguous, it was easy for their inhabitants to assemble in this way, and exercise in person the functions of a pure democracy; but, apparently in order to ensure the presence of some representatives from every town, and in view of the probable spread of the settlements over a wider territory, the Constitution directed that the several towns should send their deputies to the "Courte of Election." The charter did not re-enact this provi-

[23] Mass. Hist. Coll., Vol. 9, 5th Series, pp. 253, 256.

sion in terms, but declared that the Governor, Deputy Governor and twelve Assistants, and such other general officers of the company as the General Assembly should think fit, should be annually chosen at the May election "by such greater part of the said company for the time being, then and there present." Vacancies occurring during the year were to be filled by the General Assembly.

The charter, then, required annual elections of Colony officers by popular vote, at a mass meeting of all the freemen in one place, and particularly specified as the electoral body the majority of the freemen present at the time of voting.

This was contrary to the usage of the Colony from the first, for the freemen in the distant towns had been uniformly accorded the privilege of sending in their ballots for Colony officers, by the hands of their deputies.[24] The same custom had prevailed in New Haven, and was founded there on an express provision of their "Fundamental Agreement" of 1643.[25]

The legislature determined to maintain this convenient practice, charter or no charter, and soon after the accession of the New Haven towns, a law was passed (at the May Session, 1670) that all freemen should or might, without any further summons, "on the second Thursday of May, yearly, either in person or in proxie, at Hartford, attend and consummate the election of Gouernour, deputy gouernour and Assis^{ts}, and such other public officers as his ma^{tie} hath appoynted by o^{r} Charter, then to be yearly chosen." [26]

[24] 1 Conn. Col. Rec., 346, 347: Gershom Bulkeley's Letter; Coll. Conn. Hist. Soc'y, I, 64.
[25] 1 N. H. Col. Rec., 113; 2 *ibid.*, 567.
[26] Col. Rec., 1665–7, p. 131.

In order *"that the Election by Proxys may be so managed that there be no Fraud or Deceit used therein,"* it was, at the same session enacted that the freemen in each town should meet on the last Tuesday of April and choose their representatives in the next legislature. The twenty nominations for Colony officers, agreed on at the preceding session of the General Assembly, were then to be read, and ballots taken for Governor and Lieutenant Governor. This done, they were to ballot successively for Treasurer, Secretary, and Assistants, beginning, as to the Assistants, with the first name on the official list, remaining after the choice of the Governor and Deputy Governor, and then proceeding to the second and so on. A blank ballot counted for nothing, and the twelve having the most votes were to be declared elected.

This provision as to blank ballots came down from the original Constitution of 1639, which provides that on Election Day the Secretary should "first read the names of all that are to be put to choise, and then shall severally nominate them distinctly, and every one that would have the p[r]son nominated to be chosen shall bring in one single paper written vppon, and he that would not have him chosen shall bring in a blanke; and every one that hath more written papers than blanks shall be a Magistrat for that yeare." A much simpler mode would have been for those only to cast their ballots who were in favor of the nominee, but this would have made it evident who were opposed to him. Hence the blank paper was introduced to give a secret ballot, and secure freedom of choice to each elector.[27]

In 1689 the Election laws were revised, and it was or-

[27] Swift's System, vol. 1, p. 66, note.

dered that every freeholder "of peaceable, orderly, and good conversation," twenty-one years old, and having an estate to the value of forty shillings a year, should be enrolled and sworn in as a freeman "of this corporation." [28] The procedure for the State Election was then thus established.

It is ordered by this Court that for the future the freemen in the severall plantations shall meet in their seuerall townes upon the third Tewsday in March yearly, at their meeting house, about nine of the clock in the morning, and there each freeman shall giue in the names of twenty persons fayrely written upon a peice of paper to the constable and commissioner or townsmen of their town, (whoe they choose for to be nominated at the election for Assistants,) who shall receiue them and seal them up in a peice of paper, and the constables shall the next Fryday after the sayd meeting, carry their sayd votes to the county town, and the constable of the county town shall by himselfe or one appoynted by the constables met at the county towne carry the voates of the seuerall townes to Hartford, there to meet on the last Tewsday in March yearly, in the court chamber, and the Assistants present, or Secretary, shall administer an oath to those that shall com from the sayd county townes, faythfully to sorte the sayd votes, and the names of those twenty they shall find to haue most votes shall by the Secretary be sent back to the seuerall county townes by the sayd persons that shall bring up their votes, and from thence the seuerall townes shall have notice of those twenty that are by the freemen appoynted to stand for the nomination at the court of election, and upon the last Tewsday in Aprill the freemen in each town in this Colony are to meet as afoars^{d} about nine of the clock in their meeting house, and out of that number of twenty chosen for the nomination, they are to giue in their votes for the Gov^{r}, with his name fayrely written upon a peice of paper; in like manner they are to giue in their votes for the Dep^{t} Gov^{r}, wth his name fairly written upon a peice of paper, all which are to be sealed up and writ upon, These are the votes for the Governo^{r}, and so for the Dep^{t} Gov^{r}. They are allso to goe ouer the whole nomination person by person, according as

[28] Col. Rec., 1689–1706, p. 11. Cf. Rev. of 1702, p. 31.

they are set downe in the nomination [*and every freeman is to bring in his vote to the constable for every one which shall be in the nomination*], which votes shall be a white paper for a blanck, and a paper with some writing upon it for election, and each mans voate shall be sealed up and the name of the person that is voted for shall be written on the outside of the paper, and so they are to pass through the nomination and to giue in their votes for Treasurer and Secret^ry, which in like manner are to be sealed up and writ upon, and the votes put into the hands of the deputies of their towne, who are to bring them up to the election and deliuer them at the time of the election as they are called for, any former order to the contrary notw^thstanding, and those twelue men that haue most uotes when the whole number is gon over shall be declared Assistants for the yeare ensueing.

This substitution of the direct vote of the freemen, to be counted by the constables in March, for the action of the General Assembly at its Fall Session, as respects the nomination of Assistants, lasted only three years.[29] The traditions of Connecticut were in favor of publicity in discussion, secrecy in election. Rhode Island had, early in her history, required her freemen to endorse their own names on their ballots; but such a provision was foreign to the spirit of the founders of Connecticut. Their laws required a list of the names of the freemen voting to be returned with the ballots, but such a list of course showed simply who voted, not how they voted.

The effect of the device of a nomination of twenty candidates, out of whom twelve were to be elected, by voting on each name in order, secured great stability in the upper house. The lower house, at times, endeavored to change the order of arrangement in certain cases, but the Assistants generally refused to concur.[30]

[29] Col. Rec., 1689–1706, p. 81.

[30] Abraham Bishop's Oration on Connecticut Republicanism, Sept. 1800, Appendix, p. vii.

From the natural tendency to vote in favor of whatever is officially proposed, and also because, the process being rather a tedious one, many of the freemen would leave the town meeting, to go home, before the last ballots were received,[31] it happened, almost without exception, that the twelve persons whose names stood first on the official list, as arranged by the legislature, were elected year after year; and only as, in slow course, they died or refused a renomination, were those at the foot promoted in turn to a position where an election was virtually assured. A new man might be put forward by a large majority for the nomination, but when it came to the election, he found it practically impossible to struggle out of his place in line.

We have some letters written at this period from Samuel Willis to Gov. Fitz John Winthrop which throw a strong side light on the scene.[32] Gov. Winthrop arrived at Boston from a trip abroad, made in the interest of the Colony, to preserve its charter, late in the year 1697, and Mr. Willis writes him there, as follows, on Dec. 25, 1697:

I hope some of your friends not writtinge to you in England will obtaine your pardon, when you come to understand that the gentlemen of this Colony who like not to have the governm^{t} to sink into the mire of popular confusion are of as little value as necke beefe in Ireland, and would have rendered themselves culpable to have written to you; hardly any gentlemen of this Colony havinge don or received one graine of justice since your departure. . . . Most of our gentlemen secluded both houses of Parlam^{t}, M^{r}. Henry Woolcott and younge M^{r}. Chester both secluded the house of Comons the last sessions in Octob^{r}, and an eminent syder-drinker in the roome of one, and a person risen out of obscurity in the place of the other,—your old friend

[31] Swift's System of the Laws of Connecticut, vol. i, p. 84.
[32] Mass. Hist. Coll. 6th Series, Vol. III, p. 17.

M^r^. Nicoles secluded the lower house about a yeare past for his beinge soe good a husband for the country, who is very glad of this opportunity to waite upon you from Boston. Only M^r^. Jones is still continued Dep^t^ Gov^r^ in his decreped old age, who havenge bin only capable of drinkinge flipp & takinge tobaco since your departure, yet beinge an old Cromwelian is alowed 20£ p^r^ ann̄ for his supply of those needfull comodytys.[33]

Two years later (Dec. 5, 1699) Mr. Willis writes to Gov. Winthrop again, and thus alludes to the two laws above mentioned:

S^r^, there are two thinges effected since your Hon^r^ came to the Govermn^t^ w^ch^ I judge will much conduce to the wellfaire of the Colony if they be continued: That the Magistrates and Deputys sitt distinct & that the justices be stated and comissioned and not annually chosen, w^ch^ will much strengthen the Governm^t^, when they are not at the despose of the arbitrary humors of the people, and yet subject to be called to accompt by the General Court or to be displased for delinquency.[34]

His hopes were not fulfilled, for after three years' trial, the old plan of appointing justices of the peace and judges of the County Court annually was reinstated.

The statute regulating these proceedings required the ballots or "proxies," when cast, to be sealed up, endorsed so as to show the office voted for, and sent to Hartford, to be delivered, "at the Election, as they shall be appointed, to them who are ordered to receive and sort the said votes; and at the time of Election, those standing in nomination shall be put to Election, after which (the Governour and Deputy Governour being first chosen) those Twelve persons, who shall have the greatest number of votes, shall be the Assistants of this Colony for the year ensuing. And the constable of

[33] Mass. Hist. Coll. 6th Series, Vol. III, p. 31.
[34] Mass. Hist. Coll. 6th Series, Vol. III, p. 44.

each town shall take an account of the names of all those that shall Vote in their respective Towns, and send them with their Proxys."

In this manner a great constitutional change was wrought by a simple act of legislation; but we must remember that the charter had given far broader powers of this character than have ordinarily belonged to American legislatures, and limited them by little else than that no laws were to be passed contrary to those of England.

By English law,[35] proxy voting for public office, or in public office was unknown, except in the case of members of the House of Lords; and had this transfer of the polls from the capital of the colony to the several town meetings been brought to the attention of the Crown, it is not unlikely that it might have been declared a violation of the charter. It was, however, so plainly a matter of convenience, if not of necessity, that it seems to have met with universal acquiescence, although it was not till 1750 that the provision for voting in *person* or proxy was modified by striking out all reference to voting in person.

The charter, as I have mentioned, gave the General Assembly power to fill vacancies. So long as the freemen met at the capital to cast their own votes, any failure to elect simply required another ballot. But as soon as the election came to be had at town meetings, to take another ballot would have occasioned great delay and expense. The General Assembly, therefore claimed the right, or rather exercised the power, to elect, whenever the freemen did not, and both Governor and Lieutenant Governor were repeatedly chosen in this way.

[35] State vs. Tudor, 5 Day's Reports, 333.

The first Gov. Trumbull (the Brother Jonathan of the Revolution) failed of an election by the people in 1770, but was at once chosen by the Assembly.[36]

It was apparently thought by Gov. Winthrop that the provision for filling vacancies in any office by legislative election might be looked on with jealousy by the freemen. In the letter of May 11, 1667, in which he sought, unsuccessfully, to induce the General Court to allow him to decline a re-election as Governor, after expressing his earnest desire "to resigne the same into your hands, that you may make choice of another," he adds, "According to that full power allowed by his Ma:[ties] charter w[ch] may be also of use for future that it hath beene tymely practiced, upon so iust an occasion." [37]

By the second century of the colony's existence, this sealing up the votes at State elections by the town authorities, to be counted and published first at Hartford by legislative authority, caused great dissatisfaction. Complaint was made that the count might not always be a fair one; and that certainly there was nothing to guarantee that it would be such, but the honesty of the counters, since no one else knew the state of the ballot.

It was, in fact, impossible that the modern newspaper and a system of sealing up the votes uncounted, to be first published weeks afterwards in another place, could exist together.

Before the close of the seventeenth century, following the example set by Rhode Island, another radical change was made by the legislature in respect to its own composition. It had met as one body until 1698. After that it was divided by law into two houses.[38] The

[36] Col. Rec., 1768–72, p. 285.
[37] Mass. Hist. Coll., vol. viii, 5th series, p. 12.
[38] Col. Rec., 1689–1706, p. 267, 282.

Governor, Deputy Governor, and the Assistants, or Council, as they were still called, thereafter met as the "upper house," in one apartment, the Governor presiding. In his absence, the Deputy Governor presided; but when the Governor was in the chair, the Deputy Governor sat in the house, with the right of speech by law, and of vote by custom.[39] The "lower house" chose its own speaker.

This law transcended the competency of the legislature.[40] It removed the Governor from immediate contact with the deputies, deprived him of any share in their action, and withdrew from them the face to face counsel of the Assistants, while it allowed the latter to exercise their veto on legislation without the restraint of expressing their opinion, or giving their votes in the presence of a hostile majority. Sitting in the upper house, they were styled the Council.

The General Court also a few months earlier had voted that the justices of the peace should be appointed thereafter, not annually as before, but to continue during the pleasure of the legislature.[41]

Both these measures seem to have the fruit of a feeling among what may be termed the Colonial aristocracy of the day that the power of the people at large was becoming too great in the General Court.

Whether the division of the General Court into two houses, gave each a negative on the other, in respect to elections, as well as ordinary legislation, was for many years a disputed point.

In 1707 a special session of the Assembly was called

[39] Swift's System, Vol. I, p. 63.
[40] See Benjamin Gale's Observations on a Pamphlet Entitled "Remarks on Dr. Gale's Letter to T. W., Esq.," p. 29.
[41] Col. Rec., 1689–1706, p. 235.

by the Deputy Governor to fill the vacancy occasioned by the death of Gov. Fitz John Winthrop, and it was voted that, in so doing,

the Votes of the members of both houses, to be given for making the said choice, shall be mixed or putt together before they be sorted, and that the major part of the said Votes shall determine the Choice.[42]

In May, 1716, the houses having balloted separately for certain officers and failed to agree, the following vote was passed in the house of deputies.

Resolved, That since y^e^ Honble y^e^ Upper House do not think fitt to agree with us in y^e^ Appointment of severall needfull officers in this Government, This House desire and insist, That y^e^ Election of y^e^ persons not yet agreed upon may be now performed according to y^e^ Privilege of y^e^ Charter and y^e^ Direction of y^e^ law whereby is given to each Member of this Assembly an equal Vote in y^e^ Election, excepting only to y^e^ Gov^r^ and in his Absence to y^e^ Deputy Gov^r^ a Double Vote when an Equivote shall happen.[43]

The upper house declined to concur, but voted to "consent to have it considered in a Conference of both Houses, Concluding that it will be found Inconsistent with the charter." [43]

At the October session of this year, a certain bill having been passed in one house and rejected in the other, the Upper House invited a free conference, expressing much anxiety as to this misunderstanding, and its effect on their privileges.[44]

At the May session, in 1717, the lower house asked that the Judges might be elected "by voates of both Houses collectively, considered as one body;" adding

[42] MS. Records, Conn. State Library, 1 Civil Officers, 84.
[43] 1 Civil Officers, 145.
[44] *Ibid.*, p. 162.

"this house is of opinion that such an Election is a privilege by Charter Granted." [45] The upper house refused to concur,[46] and a speech from the Governor failed to induce the lower house to recede.[46]

* * * * *

An official primer of early Connecticut history was issued by the State in 1920, in the form of a letter from her to the children in her public schools. It states succinctly the main events in that history, and we reprint it here.

The State of Connecticut covers a part of what, for some years before 1620, had been known as New England. The name "Pilgrims" is given to a company of Englishmen who had been political refugees in Leyden, Holland, but in that year left Europe for America. Most of them came here mainly to secure liberty to worship God in their own way. The ship that brought them was named the *Mayflower*. Before they landed they signed a paper, called the "Mayflower compact." In it they agreed to constitute themselves a Colony, and to enact, from time to time such just and equal laws as should be thought most for the general good.

This was the first government in the history of mankind avowedly founded on the principle that all governments derive their just powers from the consent of the governed,—a truth long afterwards stated, July 4, 1776, in the Declaration of Independence of the United States.

The Pilgrims landed on December 21, 1620. It was on a rocky shore in what is now known as Plymouth, Massachusetts. The season was the dead of winter. The country was owned by England and they were all Englishmen. It was inhabited only by a few red Indians, who sold them, from time to time, their title to the possession of the land along the shore.

The Pilgrims set up such a government as was described in the Mayflower compact, and named it the New Plymouth Colony. They elected a Governor from among themselves and also assistants for him.

[45] 1 Civil Officers, 173.
[46] *Ibid.*, p. 175.

In England they had been called "Separatists," because they had separated themselves from the established church, and chose their own ministers. Only church members could vote at Colony elections.

In Connecticut, which also was another English colony, founded a few years later, church membership was not required as a condition of the right to vote.

Both colonies had town meetings, every year, of all entitled to vote, as electors, at which rules were made to promote good order. But Connecticut differed from Plymouth in having a full written Constitution, to which any such rules must conform.

This Constitution was framed and adopted in 1639, at a meeting of the settlers held at Hartford. It was the first written document in human history of that nature, setting up a new government and providing in detail certain "fundamental orders" as to the mode of conducting it.

Before 1643 there had come to be four English colonies in New England. These were called the New Plymouth Colony, the Massachusetts Bay Colony, the Connecticut Colony and the New Haven Colony. In 1643, they all joined in creating a confederation, under the name of the "United Colonies of New England." This lasted until 1664.

What, now, does the landing of the Pilgrims in 1620 mean to us in Connecticut?

The founders of States have a place by themselves. They make history. They create a new and great political institution. They step forward into a place before untrodden. They set a precedent for similar action in constituting other governments.

The Pilgrims of Plymouth were, in effect, the founders of New England. When we set up a new government in Connecticut we looked to Plymouth for our warrant to set one up by virtue of a social compact, made by those whom it was to govern. Under such a compact the Plymouth settlers had lived for nineteen years. The Connecticut settlers had the benefit of this experiment of the Pilgrims. But the Pilgrims had put into their compact a statement that they were "loyal subjects" of the King of England. In our Constitution of 1639 there is nothing of this sort. The Connecticut settlers spoke for themselves only, in voting to establish by and for themselves and their successors "one Public State or Commonwealth."

The Pilgrims ran great risks, and submitted to great hardships in founding their Colony. It took them more than two months

to make the voyage across the Atlantic. Half of them died within the next three months for want of proper food and shelter. They knew what dangers they had to encounter, but they knew also, as recorded by their Governor, William Bradford, in his history of their doings, "that all great and honorable actions are accompanied with great difficulties; and must be both enterprised and overcome with answerable courages."

This was the spirit in which the Pilgrims undertook their task. This was the spirit they hoped to infuse into their successors on the soil of New England. This was the spirit in which they came to plant free institutions in what was then almost as much a New World as when Columbus made his landfall in 1492. This was the spirit in admiration of which we are to celebrate this year the three hundredth anniversary of the Landing of the Pilgrims.

The State of Connecticut,
By Marcus H. Holcomb,
Governor.

Religious liberty in this century is the right of every man to worship God in his own way, so long as he does not disturb others in the exercise of the same right. To the Puritan of the seventeenth century, it meant liberty to him and his posterity to worship God in the best way, that is, in his way. It was to have government on his side. It is not 300 years since the pulpits of Edinboro' proclaimed that to give equal liberty to all was no other than the mystery of iniquity, spoken of in the apocalypse.

The Puritan movement and the Pilgrim movement, in a large sense created their times. But they were very different from these times, and it is no vanity in us to say that ours are the better.

When, a quarter of a thousand years ago, Eaton and his exploring party first landed at Quinnipiac, one September day, and determined to bring the company of the *Hector* here in the following Spring, it was not to make

of Quinnipiac what Roger Williams was ready to make of Rhode Island.

It was to found here a Christian commonwealth, in which they should have liberty to worship God in the way they deemed most in accordance with His will, and in which no welcome should be offered to any who would worship him in any other way.

Who would blame them for their enthusiastic hope and wish to found a State, which should also be in truth, what England had been in form, a Church—and their Church? They had dedicated to this hope their lives and fortunes. They were going out as a peculiar people, to a place where no white man lived, who differed from their religious views. Why should they not try, as they did, to discourage the coming in of other forms of doctrine or worship?

They had been cruelly denied the privileges they came here to claim, in old England. They had seen those who were of their way of thinking, insulted, pilloried, driven from their churches, burned at the stake. In this way had the majority of Christians treated the minority of Christians in most countries, and ages, since the conversion of Constantine. They had no wish to retaliate, but they did hope, here to be let alone.

It was then the law of England, or was claimed to be its law, that nobody but a clergyman could officiate in public worship in the church without a license from the ecclesiastical authorities. Samuel Eaton was then an active minister of the Church of England which favored non-conformity. He was proceeded against in the ecclesiastical courts for non-conformity, and sent to jail. He preached in the jail to the prisoners who were willing to hear him, and a good many were. One of

them appealed to the courts to stop this unruly clergyman, who preached where the parish priests did not approve of it or license it. He was convicted and obliged to pay a considerable sum in settlement of the prosecution. He made up his mind to leave a country where he thought true religion was sacrificed to matters of form, and before long he was preaching in New England. There he soon became prominent in the Plantation of New Haven. He was a brother of Governor Eaton of the New Haven Colony, and in no danger of persecution there. He was one of the many whom the arbitrary exercise of power brought into an antagonistic position toward the Church of England.

Samuel Eaton brought quite a library with him across the sea. One of the books which he introduced in New Haven was Sir Thomas More's "Utopia." He had come over to help found a church with open doors. Samuel Eaton's position was not a solitary one. He was soon considered as one who made the law and made it just.

In giving, then, greater power of voting to church members; in taxing every household to support their ministry; in compelling every inhabitant to attend *their* church; in banishing from the jurisdiction such as publicly maintained other opinions than theirs as to such matters, our forefathers were honestly and sincerely endeavoring to work out what they deemed the highest ideal of religious liberty and religious life.

If we have a higher ideal, we owe it to them.

Mankind advances in the knowledge of the truth, one step at a time. They took a long step in substituting the church of Davenport and Eaton for the church of Charles I.

But if we measure the Puritans of 1637 with the Cavaliers and placemen of 1637, or with the best representatives then of the thought and action of the Continent of Europe, how splendidly do they loom up above them, in the lofty regions of moral earnestness, and spiritual force!

In the grand corridor leading from the Chamber of the House of Peers to that of the House of Commons, at Westminster, England has sought to picture some of the great scenes of her political history. Among them Americans are proud to see, in a great fresco, the "Embarkation of the Pilgrim Fathers for New England."

They were *fathers* of liberty to England as well as to America. They showed to all men how the love of God might triumph over love of King and country, and that civil liberty was nothing unless it bore with it religious liberty. And if their religious liberty had in it less of tolerance than ours, let us remember that it had in it less of indifference, too. It was the passion of their life. It was the swelling bud, that in another age was to be the open flower.

The Puritans brought with them to these shores more than Puritanism. They brought the spirit of Puritanism, and that spirit has in it whatever is purest and best in human history. In their times it did not reach its full development. It has not in ours. But it keeps time with the march of the ages. It rises ever to a clearer and nearer conception of God. It has come to feel that his nature and his name are love.

* * * * *

The State of Connecticut sprang directly from the Colony of Connecticut. That soon absorbed the "jurisdiction" of New Haven and the settlement at Saybrook.

The people were all English and claimed to proceed under authority of those who had obtained grants from a public corporation under the name of "the Council established at Plymouth in the County of Devon for the planting, ruling, ordering and governing of New England in America," which was incorporated by the Crown on November 3, 1620. The charter particularly provided that the forty persons named as the original members and "their Successors shall have and enjoy for ever a Common Seale, to be engraven according to their Discretions; and that it shall be lawfull for them to appoint whatever Seale or Seales they shall think most meete and necessary, either for their Uses, as they are one united Body incorporate here, or for the publick of their Governour and ministers of New England aforesaid, whereby the Incorporation may or shall seale any Manner of Instrument touching the same Corporation, and the Manors, Lands, Tenements, Rents, Reversions, Annuities, Hereditaments, Goods, Chattles, Affaires, and any other Things belonging unto, or in any wise appertaininge, touching, or concerning the said Corporation and plantation in any by these our Letters-Patents, as aforesaid, founded, erected, and established." [47]

In a subsequent clause the corporation was empowered to constitute and discharge any "Governors, Officers, and Ministers," as it should think fit, and to make laws of government for the plantation, civil and criminal, as near as might be like those of England.

It published in 1622, a "brief Relation of the Discovery and Plantation of New England," addressed to the Prince of Wales (afterwards Charles I), who while

[47] Poore, Charters and Constitutions, I, 923–5.

in his teens, by approving the suggestion of Captain John Smith, was the first to give the country that name, in any authoritative way.[48] In this the President and Council stated their purpose to be to set up a general government in New England at some convenient place, and parcel out the territory into several grand divisions or "counties." Each of these was to be under a chief head, with a staff of officers, such as a steward, comptroller, and treasurer; and each subdivided into manors and lordships. It had, the pamphlet proceeds, been "provided that all cities in that territory, and other inferiour towns where tradesmen are in any numbers, shall be incorporate and made bodies politic, to govern their affairs and people, as it shall be found most behoveful for the publick good of the same." [49]

On March 19, 1628 (old style), the Council, by a deed under its common seal to Sir Henry Rosewell and five others, and their heirs and associates forever, made a grant of lands for a settlement on Massachusetts Bay. They, having first associated twenty others with them, obtained the charter from the Crown, of March 4, 1629 (new style) under which Winthrop and his company set up the Colony of Massachusetts.

Robert, Earl of Warwick, was the President of the

[48] The first printed work in which this name was used, instead of the old term, "North Virginia," was Capt. John Smith's "Description of New England," published in 1616. Mass. Hist. Soc. Soll., 4th Series, III, 96. Smith was the undoubted originator of the name New England, "but," he says in his "Advertisements for the Unexperienced Planters of New England or anywhere" (Mass. Hist. Soc. Coll., 3rd Series, III, 1, 20) "Malicious minds amongst Sailers and others drowned that name with the echo of *Nusconcus, Canaday,* and *Penaquid,* till at my humble sute, our most gracious King Charles, then Prince of Wales, was pleased to confirm it by that title." In the petition to the King, of March 3, 1620 (N.S.) on which the patent to the Council of Devon was issued, the petitioners ask first of all, "that the territories where yo^{r} peticôners makes their plantacon may be caled (as by the Prince His Highnes it hath bin named) *'New England.'*"

[49] Mass. Hist. Soc. Coll., 2d Series, IX, 22, 23.

Council at least as early as January 13, 1630 (N.S.),[50] and we have the high authority of Dr. Douglass and Dr. Trumbull[51] for the assertion that in that year the Council conveyed to him, by a grant soon afterwards confirmed by a royal patent, the territory which on March 19, 1631, he transferred by a deed under his own seal to Lord Say and Seal and ten others, and their heirs and associates forever.

It seems reasonable to accept Douglass' and Trumbull's statement, justified as it is by repeated declarations of the General Court during the seventeenth century.[52]

The Council had a regular clerk, but its records have not been preserved (although copies of part of them are extant),[53] and it is denied by some later historians that the Earl had any title to convey.[54]

As to this contention great weight must be given to the form as well as the substance of the documentary proofs. Particularly is this true of ancient conveyances under seal. Much is to be presumed also in support of claims frequently recognized and set up by the General Court.

It is difficult for us to enter into the conception of the nature of a seal, which was common to all Englishmen in the seventeenth century. To them and to their forefathers for many generations, it was the most solemn form of authenticating any written expression of will, which was intended to alter legal relations.

[50] He then signed a patent in favor of the Plymouth settlers, in which he is described as President.

[51] Trumbull, Hist., I, 547; Douglass' Summary, II, 160.

[52] Hinman, Letters, &c., 40, 43, 59; Trumbull, Hist. of Conn., I, 380, 543.

[53] Massachusetts and its Early History, 162; Records of the Council for N. E., Cambridge, 1867, 8.

[54] Massachusetts and its Early History, 148; Johnston, Hist. of Conn., 8, 109.

We may not unfairly say that the legal value of a seal in any community is in inverse proportion to the education and intelligence of its people. In ages when hardly any except priest or monk could write, and property was mainly massed in the hands of a few, the seal afforded a simple and generally effectual method of showing that a conveyance, a charter, or any other legal document, came from the hand, or with the approval, of those in whose names it might profess to speak.

Every great land-owner in England, by a century or two after the Norman conquest, had his own coat of arms. His seal was inscribed with this. No one, not of his name and family, could lawfully use it. He took good care that no one else should have an opportunity to do so, by keeping it in some safe and secret place, or perhaps carrying it about upon his person.

The Crown had its great and its privy seal. The ecclesiastical and municipal corporations had theirs.

In the time of Edward I, every freeman and some of the villeins had a seal.[55] A deed of land, according to English law, until long after the settlement of New England, was well executed if it bore the seal of him whose grant it was, though not his signature. Without a seal, or a legal substitute for it, a conveyance of land, though signed, is still in Connecticut no deed, and ineffectual to pass full title.

So late as the latter half of the eighteenth century, Sir William Gladstone declared, in his Commentaries on the Laws of England,[56] that every corporation not only could, but must have a common seal, for, he continued, it "being an invisible body, cannot manifest its

[55] Blackstone's Commentaries, II, 305.
[56] I, 475.

intentions by any personal act or oral discourse: it therefore acts and speaks only by its common seal."

By the great seal of the State, the first and greatest of corporations, all important public acts were attested, and without its use, it hardly seemed to the popular mind, in early English history, to be possible to administer and uphold the government. When James II, driven from the throne of England, made his first attempt to escape from the kingdom, his last act, in crossing the Thames, was to throw the great seal overboard, in the hope, no doubt, that proceedings to displace him would thus be brought to a full stop.[57]

The great seal of a foreign power has always been recognized as sufficiently authenticating its official acts. The seal is said to prove itself. Every sovereign is supposed to be familiar with the appearance of the great seal of every other sovereign; and the same familiarity is imputed to his courts of justice.

In 1663, when Governor Stuyvesant was at odds with the Colony of Connecticut as to the Dutch title to some of the Long Island towns, he urged the directors of the New Netherland company to procure from the States-General a patent or letter defining the limits of the Dutch possessions in America, and recommended that it be "sealed with their High Mightinesses' Great seal, at which an Englishman commonly gapes as at an idol." This, he wrote, would help matters complicated by "the unrighteous, stubborn, impudent and pertinacious proceedings of the English at Hartford." [58]

The claim of title in Connecticut under a lost patent is also supported by a letter from John Humfrey sent

[57] Macaulay's Hist. of England, III, 293, London Ed. of 1863.
[58] Documents relating to the Col. Hist. of N. Y., II, 488, 484.

from London to Isaac Johnson[59] in Massachusetts, under date of December 9, 1630, in which is found this passage: "My Lord of Warw. will take a Patent of that place you writ of for himselfe, and so wee may bee bold to doe there as if it were our own." [60] It is at least a fair surmise that Johnson had previously written to Humfrey that the region of the Connecticut River was one adapted to an English settlement, and that in consequence of this news the Earl of Warwick had determined to obtain from the Council for New England a patent embracing it, to himself, but really for the benefit of those of his Puritan friends who were then contemplating a removal to New England.

Thomas Lechford, an attorney, who would not be apt to use words loosely, in his "Plaine Dealing," written in 1641, says of the Saybrook and Hartford settlements: "These plantations have a Patent." [61]

Two years later, Parliament put the Earl of Warwick at the head of a commission of six Lords and twelve commoners, having jurisdiction over all plantations and islands occupied under authority of the Crown. Early in 1647, the Earl, as Governor in chief over foreign plantations, the Earl of Manchester and Viscount Say and Seal, speaking for this commission, wrote to the Colony of Connecticut recognizing its "jurisdiction" to administer justice, and stating that the committee did not purpose to "restrain the bounds of your jurisdiction to a narrower compass than is held forth by your letters patent.[62]

This seems quite a plain recognition of its possession

[59] Coll. Mass. Hist. Soc., 4th Series, VI, 4.
[60] Mr. Johnson had died more than two months before this was written.
[61] Mass. Hist. Soc. Coll., 3d Series, III, 97.
[62] Hubbard, Hist. of New England, Chap. LV.

of what the two principal parties to the grant of March 19, 1631, the grantor and the ranking grantee, considered a proper title for the purposes of civil government. It claimed one by virtue of its purchase from Colonel Fenwick of the Saybrook properties, and from no other source.

The evidence that the Earl executed the deed to Lord Say and Seal and his associates is all that can fairly be required; and in that he professes to be the owner of the lands, and to convey them with "all jurisdictions, rights, and royalties, liberties, freedoms, immunities, powers, privileges, franchises, preeminences, and commodities whatsoever, which the said Robert, Earl of Warwick, now hath or had, or might use, exercise and enjoy, in or within any part or parcel thereof." [63] It is certain also that those who received the grant, thus purporting to pass *jura regalia,* thought that they could appoint a Governor of the territory which it embraced; for in July, 1635, five of them, "in their own names, and in the name of . . . the rest of the company," signed a commission constituting John Winthrop, Jr., "Governor of the River Connecticut with the places adjoining thereunto." This document they signed individually, affixing their own particular seals on the same piece of wax.[64]

The Warwick deed or patent of 1631 was, in a measure, a family transaction. The Earl's family name was Robert Rich. One of the grantees, "the right honorable Lord Rich," was his eldest son, and another, "Sir Nathaniel Rich, Knt," a near relation.[65] "Lord Brook" was Baron Brooke of Warwick castle. It would be natural

[63] Trumbull, Hist. of Conn., I, 525.
[64] *Ibid.*, 527.
[65] See his will in Water's Genealogical Gleanings, II, 872.

for the Earl to hand the deed, as soon as it was executed, to his son and heir. Such papers were then not recorded in any public registry of lands. The Council for New England surrendered its charter to the Crown in 1635; the civil war soon broke out, with all its work of wreck; and the family of the Earl became extinct in the next century. Under such circumstances it is not surprising that a copy of a copy of this Warwick deed is all that the States archives have to show to support the claim of a paper title prior to the charter of 1662.

It is important to observe that the Earl of Warwick had the common seal of the Council for New England in his possession for a considerable period, and at least as late as 1633, this being apparently against the will of a number of its members.[66] He could thus have executed, at any time, a deed in its name to some third party, simply by affixing the seal; and then taken a reconveyance from the latter to himself. The Council being a corporation and not a directing body within a corporation, the law made those who attended any meeting regularly appointed (though only one or two might thus be present), a quorum to transact business. At the meeting of November 4, 1631, held at Warwick House in London, at which but two were present, the Earl of Warwick and Sir Ferdinando Gorges, several important grants of lands were ordered. It is by no means improbable that at some of the regularly called meetings, which at this time were commonly held at Warwick House, the Earl may have been the only member present.

His deed to Lord Say and Seal and his associates was

[66] Massachusetts and its Early History, 147; Proceedings of the Antiquarian Society, 1867, Vol. IV, 110–113; Winsor, Narrative, &c., Hist., III, 309.

witnessed by two persons, one of whom was Walter Williams. A man named Williams was in his employment in 1632, and apparently had charge for the Earl of the corporate seal of the Council.[67] Probably he was the attesting witness, and if, as conjectured, there was an intermediate deed from the Earl, as President of the Council, under the corporate seal, to a dummy, who was to and did reconvey to the Earl personally, no one could have been more likely than this Mr. Williams to be selected for this office nor, when the two preliminary deeds had been made, to attest the third, by which the estate thus transmitted through him was made over to the real purchasers.[68]

The grantees under the deed from the Earl had a regular clerk, as appears from a letter of Lord Say and Seal to Governor Winthrop, dated December 11, 1661. In this he enclosed a letter to the Earl of Manchester, then Lord Chamberlain, requesting him to tell the Governor where he could speak with Mr. Jesup, "who," he adds, "when we had the patent, was our clerk, and he, I believe, is able to inform you best about it, and I have desired my lord to wish him so to do. I do think he is now in London." [69]

In 1636 William Jesup is given a legacy in the will of Sir Nathaniel Rich of a kind indicating that he was in close personal relations with the testator.

In April, 1656, Bulstrode Whitelock records an official conference with the Swedish ambassador, attended also by "Mr. Jessop, one of the clerks of the Council,"—that

[67] Winsor, Narr. Hist., III, 370.
[68] A "Mr. Williams" at about this time owned houses in Bristol. Waters, Genealogical Gleanings, I, 565.
[69] Trumbull, Hist., I, 547.

is, of the Council of State under the Protector.[70] On April 10, 1660, "William Jessop, Esq." was chosen clerk of the House of Commons of the Convention Parliament.[71] It is probable that he was the former clerk of the Council and also the same man who had been clerk of the Warwick patentees. The Earl of Manchester, who was the presiding officer of the Convention House of Peers, was a son-in-law of the Earl of Warwick; closely associated with him during the civil war;[72] and one of the commission under his presidency for the government of foreign plantations.

One must not forget, in studying the documents of that century, that the law of moneyed corporation was still in its infancy. Such bodies did not always act, in making grants, by their officers, appointed for that purpose, under their corporate or common seal, as now.

We have then three settlements of Connecticut which took root in new soil. One only was avowedly made under the Warwick patent, but the leaders had some reason to expect the maintenance of friendly relations with the patentees. The Agawam settlement, whose chief men, headed by William Pynchon, went from the Town of Roxbury and set up the local plantation government in their new home in May, 1636, by voluntary written agreement, turned out to be within the boundaries of Massachusetts.[73] The Agawam Colony was the first to effect formal organization, and soon found

[70] Memorials, Oxford Ed., IV, 243. William Jessop filled the same position in 1653 and 1654. Whitelock, Journal of the Swedish Embassy, II, 59, 456.

[71] Parliamentary Hist. of England, XXII, 233.

[72] Whitelock, Memorials, Oxford Ed., II, 262.

[73] Holland, History of Western Mass., I, 24: N. E. Hist. and Gen. Reg. xiii, 295.

it useful in accomplishing their secession from Connecticut.

The Colony of Massachusetts Bay had no definite and certain western boundary to separate it from Connecticut. The few scanty settlements east of the Connecticut River were in constant fear of violence from the Indians. It was evidently desirable that some temporary arrangement be made for the safety and prosperity of this region and for the government of the people.

In 1639 the settlers of Quinnipiac, soon to be known as the Town or Plantation or Jurisdiction of New Haven, shortly after their arrival entered into what they called a "plantation covenant." This was done at "a court solemnly made by the whole assembly of freeplanters of this plantation," and provided "that as in matters that concern the gathering and ordering of a church, so likewise in all public offices which concern civil order, as choice of magistrates and officers, making and repealing of laws, dividing allotments of inheritance and all things of like nature we would all of us be ordered by those rules which the scripture holds forth to us." [74]

The term "freeplanters" was probably used to exclude men servants, of whom there was a considerable number.

In 1640, another general meeting of all the free planters of Quinnipiac was held, at which the example of Connecticut was followed so far as to agree on and adopt certain fundamental propositions of civil government.

[74] New Haven Colon. Rec. 1638–1649, p. 12.

These were:

1. That "the Scripturs doe holde forth a perfect rule for the directio and gouernm^{t} of all men in all duet(ies) w^{c}h they are to performe to God and men as well in the gou^{r}m^{t} of famylyes and comonwealths as in matters of the chur."

2. That all the free planters "held themselues bound to esta-(blish) such ciuill order as might best conduce to the secureing of the purity and peace of the ordina(nces) to themselues and their posterity according to God."

3. That "Free Burgesses shalbe chosen out of chur. members they thatt are in the foundat(ion) worke of the church being actually free burgesses, and to chuse to themselues out of the li(ke) estate of church fellowp and the power of chuseing magistrates and officers from among themselues and the power off makeing and repealing lawes according to the worde, and the devideing of inheritances and decideing of differences thatt may arise, and all the buisnesses of like nature are to be transacted by those free burgesses."

4. That no one should thereafter be admitted as planters who did not "submitt and testefie the same by subscribeing their names to the order, namely, that church members onely shall be free burgesses, and thatt they onely shall chuse magistrates & officers among themselues to haue the power of transacting all the publique ciuill affayres of this Plantatiō, of makeing and repealing lawes, devideing of inheritances, decideing of differences thatt may arise and doeing all things or businesses of like nature."

Provision was then made for the foundation of a plantation church by seven of the planters chosen for the purpose.

One of the main motives of the founders of the Colony of New Haven was to gratify their wish to live under an ideal form of government. They brought over a number of books on that kind of government. One was the *Utopia* of Sir Thomas More. England was in the throes of a revolution. It was a religious

revolution. Their ideal State was to spring out of the ashes of the Church of England.

It was a theocracy. The independent party of emigrants came to New Haven to get such a government, thus going farther than those who went to Plymouth and Hartford.

In 1639 John Davenport and Theophilus Eaton, in carefully worded letters, intimated that such were their views.

> These Generalls were at first laid, as a foundation for Government, though it was foreseene, and agreed, that the Circumstantialls therein, such as the Ordinary, and fixed times both for Elections, and for the meeting of the Generall Court, and Court of Magistrates, how oft, and when, they shall sit, the fines for absence, or disorderly departing, and the Valew of causes to be tryed in Plantation Courts, with other particulars in their proceedings might after be further considered, continued or altered, as may best suite the course of justice, and the conveniency of the Plantations.

These provisions of the Quinnipiac settlers were obviously judicious. They had settled the general principles which should regulate their action in matters of importance. They were not drawing up a constitution in form, although they did particularly declare that their proceedings might be treated as material; but they were searching for a way to meet the extraordinary situation in which they found themselves.

It will be observed that the laws thus prescribed are not all the laws that then existed. The future of the commonwealth was very uncertain. The colonists might be held eventually to have committed treason by their action.

The phrase "fundamental order" or "fundamental

law" was used rather freely by the colonists in determining where their obedience was due to certain mandates of the Colonial authorities, which turned often on doubtful questions. The principle of the supremacy of one law, or what purported to be one law, over others, was a familiar conception of the New England colonists, as their charters had taught it to them.

In New Haven Colony in 1643[75] the terms of the law as to church members being possessed of certain privileges was officially described as "a fundamental order not to be disputed or questioned hereafter." On the other hand, in the New Haven Colonial Records for 1653–1665 a distinction was drawn between general and particular laws, "which particulars might be altered as best suits the public convenience."

The English, during the Colonial period, had no law or custom which provided for the record of deeds or charters. The owner of an estate had to run the risk of loss if his title papers were lost and he could not prove to the satisfaction of a jury that he once had the necessary papers. The American colonists early substituted a recording system, by which a deed or charter, once recorded, had done its work, and a public officer could give an official copy.

The course of Connecticut history was, as respects its record of successive changes in governmental form, strikingly like the history of the United States.

There was first a number of separate settlements, some taking firm root and some languishing to their extinction.

There were temporary alliances of some of these colonies for purposes of war. Next came a permanent

[75] New Haven Colonial Records, 1653–1665, 571.

confederacy,—permanent in design, but not in fact. This confederacy was styled the "United Colonies of New England," and ultimately gave way to the "United States of America."

In July, 1635, the Saybrook patentees appointed John Winthrop, Junior, to be Governor of the River Connecticut in New England. This Commission and the accompanying Articles follow:

Articles made between the Right Honorable the Lord Viscount Say and Seal, Sir Arthur Hasselrig, Baronet, Sir Richard Saltonstall, Knight, Henry Lawrence, Henry Darley and George Fenwick, Esqrs.; on the one part, and John Winthrop, Esq.; the younger, of the other, the 7th of July 1635.

First, That we in our names, and the rest of the company, do by these presents appoint John Winthrop the younger, governor of the river Connecticut in New-England, and of the harbour and places adjoining, for the space of one year, from his arrival there.—And the said John Winthrop doth undertake and covenant for his part, That he will with all convenient speed repair to those places, and there abide as aforesaid for the best advancement of the company's service.

Secondly, That so soon as he comes to the bay, he shall endeavour to provide able men to the number of fifty at least, for making of fortifications and building of houses at the river Connecticut and the harbour adjoining—first for their own present accommodation, and then such houses as may receive men of quality, which latter houses we would have to be builded within the fort.

Thirdly, That he shall employ those men according to his best ability, for the advancement of the company's service, especially in the particulars above mentioned, during the time of his government, and shall also give a true and just account of all the monies and goods committed to his managing.

Fourthly, That for such as shall plant there now in the beginning he shall take care that they plant themselves either at the harbour or near the mouth of the river that these places may be the better strengthened for their own safety, and to that end that they also set down in such bodies together, as they may be

JOHN WINTHROP

First Governor of Connecticut, 1657, and 1659–1676. Secured Connecticut Charter from King Charles II, in 1662. From Painting in State Library, Hartford.

most capable of an entrenchment, provided that there be reserved unto the fort for the maintenance of it, one thousand or fifteen hundred acres, at least, of ground as near adjoining thereunto as may be.

Fifthly, That foras much as this service will take him off from his own employment, the company do engage themselves to give him a just and due consideration for the same.—In witness whereof we have interchangeably hereunto subscribed our names.

W. Say & Seal. Arthur Hassilrig.
Richard Saltonstall,
Henry Lawrence,
George Fenwick,
Henry Darley.

Appointment of John Winthrop, Junior, to be Governor of the River Connecticut.

Know all men by these presents that we Arthur Hasselrig, Bart. Sir Richard Saltonstall, Knt. Henry Lawrence, Henry Darley, and George Fenwick, Esqs; in our own names, and in the name of the right honorable Viscount Say and Seal, Robert Lord Brook, and the rest of our company, Do ordain and constitute John Winthrop, Esq.; the younger, governor of the river Connecticut, with the places adjoining thereunto, for and during the space of one whole year, after his arrival there, giving him from and under us, full power and authority, to do and execute any such lawful act and thing both in respect of the place and people, as also of the affairs we have or shall have there, as to the dignity or office of a governor doth or may appertain. In witness whereof we have hereunto set our hands and seals, this 18th day of July, 1635.

Richard Saltonstall, Arthur Hasselrig,
Henry Lawrence, George Fenwick,
Henry Darley.

Five seals appendant impressed in one large piece of wax.[76]

It will be observed that "men of quality" are particularly favored.

[76] Hazard's Collections, I, 395, 396.

Certain proposals were made in 1636 by the Saybrook patentees as conditions to their removal to New England.

They contemplated the formation of a new commonwealth of a very different character from that which was afterwards set up in Connecticut. The proposals were submitted in writing, and a glance at this paper will show its aristocratic nature. The proposals or "demands" were each made in a form to call for and receive a specific answer. This paper is given here at length in its final form:

Certain proposals made by Lord Say, Lord Brooke, and other persons of quality, as conditions of their removing to New England, with the answers thereto.

Demand 1. That the Commonwealth should consist of two distinct ranks of men, whereof one should be for them and their heirs, gentlemen of the country, the other for them and their heirs, freeholders.

Answer. Two distinct ranks we willingly acknowledge, from the light of nature and scripture; the one of them called Princes or Nobles, or Elders (amongst whom gentlemen have their place) the other the people. Hereditary dignity or honours we willingly allow to the former, unless by the scandalous and base conversation of any of them they become degenerate. Hereditary liberty, or estate of freemen, we willingly allow to the other, unless they also, by some unworthy and slavish carriage, do disfranchize themselves.

Dem. 2. That in these gentlemen and freeholders assembled together, the chief power of the Commonwealth shall be placed, both for making and repealing laws.

Ans. So it is with us.

Dem. 3. That each of these two ranks should, in all public assemblies, have a negative voice, so as without a mutual consent nothing should be established.

Ans. So it is agreed among us.

Dem. 4. That the first rank, consisting of gentlemen, should have power, for them and their heirs to come to the parliaments or public assemblies, and there to give their free votes personally;

the second rank of freeholders should have the same power for them and their heirs of meeting and voting, but by their deputies.

Ans. Thus far this demand is practiced among us. The freemen meet and vote by their deputies; the other rank give their votes personally, only with this difference, there be no more of the gentlemen that give their votes personally, but such as are chosen to places of office, either governors, deputy governors, councellors, or assistants. All gentlemen in England have not that honour to meet and vote personally in parliament, much less all their heirs. But of this more fully, in an answer to the ninth and tenth demand.

Dem. 5. That for facilitating and dispatch of business, and other reasons, the gentlemen and freeholders should sit and hold their meetings in two distinct houses.

Ans. We willingly approve the motion, only as yet it is not so practiced among us, but in time, the variety and discrepancy of sundry occurrences will put them upon a necessity of sitting apart.

Dem. 6. That there shall be set times for these meetings, annually or half yearly, or as shall be thought fit by common consent, which meetings should have a set time for their continuance, but should be adjourned or broken off at the discretion of both houses.

Ans. Public meetings, in general courts, are by charter appointed to be quarterly, which in this infancy of the colony, wherein many things frequently occur which need settling, hath been of good use, but when things are more fully settled in due order, it is likely that yearly or half yearly meetings will be sufficient. For the continuance or breaking up of these courts, nothing is done but with the joint consent of both branches.

Dem. 7. That it shall be in the power of this parliament, thus constituted and assembled, to call the governor and all public officers to account, to create new officers, and to determine them already set up: and the better to stop the way to insolence and ambition, it may be ordered that all offices and fees of office shall, every parliament, determine, unless they be new confirmed the last day of every session.

Ans. This power to call governors and all officers to account, and to create new and determine the old, is settled already in the general court of parliament, only it is not put forth but once in the year, viz. at the great and general court in May, when the governor is chosen.

Dem. 8. That the governor shall ever be chosen out of the rank of gentlemen.

Ans. We never practice otherwise, chusing the governor either out of the assistants, which is our ordinary course, or out of approved known gentlemen, as this year Mr. Vane.

Dem. 9. That for the present, the Right Honorable the Lord Viscount Say and Seale, the Lord Brooke, who have already been at great disbursements for the public works in New England, and such other gentlemen of approved sincerity and worth, as they, before their personal remove, shall take into their number, should be admitted for them and their heirs, gentlemen of the country. But for the future, none shall be admitted into this rank but by the consent of both houses.

Ans. The great disbursements of these noble personages and worthy gentlemen we thankfully acknowledge, because the safety and presence of our brethren at Connecticut is no small blessing and comfort to us. But, though that charge had never been disbursed, the worth of the honorable persons named is so well known to all, and our need of such supports and guides is so sensible to ourselves, that we do not doubt the country would thankfully accept it, as a singular favor from God and from them, if he should bow their hearts to come into this wilderness and help us. As for accepting them and their heirs into the number of gentlemen of the country, the custom of this country is, and readily would be, to receive and acknowledge, not only all such eminent persons as themselves and the gentlemen they speake of, but others of meaner estate, so be it is of some eminency, to be for them and their heirs, gentlemen of the country. Only, thus standeth our case. Though we receive them with honor and allow them pre-eminence and accommodations according to their condition, yet we do not, ordinarily, call them forth to the power of election, or administration of magistracy, until they be received as members into some of our churches, a privilege, which we doubt not religious gentlemen will willingly desire (as David did in Psal. xxvii. 4.) and christian churches will as readily impart to such desirable persons. Hereditary honors both nature and scripture doth acknowledge (Eccles. x. 17.) but hereditary authority and power standeth only by the civil laws of some commonwealths, and yet even amongst them, the authority and power of the father is no where communicated, together with his honors, unto all his posterity. Where God blesseth any branch of any noble or generous family, with a spirit and gifts fit for government, it would

be a taking of God's name in vain to put such a talent under a bushel, and a sin against the honor of magistracy to neglect such in our public elections. But if God should not delight to furnish some of their posterity with gifts fit for magistracy, we would expose them rather to reproach and prejudice, and the commonwealth with them, than exalt them to honor, if we should call them forth, when God doth not, to public authority.

Dem. 10. That the rank of freeholders shall be made up of such, as shall have so much personal estate there, as shall be thought fit for men of that condition, and have contributed some fit proportion to the public charge of the country, either by their disbursements or labours.

Ans. We must confess our ordinary practice to be otherwise. For, excepting the old planters, i.e. Mr. Humphry, who himself was admitted an assistant at London, and all of them freemen, before the churches here were established, none are admitted freemen of this commonwealth but such as are first admitted members of some church or other in this country, and, of such, none are excluded from the liberty of freemen. And out of such only, I mean the more eminent sort of such, it is that our magistrates are chosen. Both which points we should willingly persuade our people to change, if we could make it appear to them, that such a change might be made according to God; for, to give you a true account of the grounds of our proceedings herein, it seemeth to them, and also to us, to be a divine ordinance (and moral) that none should be appointed and chosen by the people of God, magistrates over them, but men fearing God (Ex. xviii. 21.) chosen out of their brethren (Deut. xvii. 15) saints (1 Cor. vi. 1.) Yea, the apostle maketh it a shame to the church if it be not able to afford wise men from out of themselves, which shall be able to judge all civil matters between their brethren (ver. 5.) And Solomon maketh it the joy of a commonwealth, when the righteous are in authority, and the calamity thereof, when the wicked bear rule, Prov. xxix. 2.

Obj. If it be said, there may be many carnal men whom God hath invested with sundry eminent gifts of wisdom, courage, justice, fit for government.

Ans. Such may be fit to be consulted with and employed by governors according to the quality and use of their gifts and parts, but yet are men not fit to be trusted with place of standing power or settled authority. Ahithophel's wisdom may be fit to be heard (as an oracle of God), but not fit to be trusted with power of set-

tled magistracy, lest he at last call for 12000 men to lead them forth against David, 2 Sam. xvii. 1, 2, 3. The best gifts and parts, under a covenant of works (under which all carnal men and hypocrites be) will at length turn aside by crooked ways, to depart from God, and finally, to fight against God, and are therefore, herein, opposed to good men and upright in heart, Psal. cxxv. 4, 5.

Obj. If it be said again, that then the church estate could not be compatible with any commonwealth under heaven.

Ans. It is one thing for the church or members of the church, loyally to submit unto any form of government, when it is above their calling to reform it, another thing to chuse a form of government and governors discrepant from the rule. Now, if it be a divine truth, that none are to be trusted with public authority but godly men, who are fit materials for church fellowship, then from the same grounds it will appear, that none are so fit to be trusted with the liberties of the commonwealth as church members. For, the liberties of the freemen of this commonwealth are such, as require men of faithful integrity to God and the State, to preserve the same. Their liberties, among others, are chiefly these. 1. To chuse all magistrates, and to call them to account at their general courts. 2. To chuse such burgesses, every general court as with the magistrates shall make or repeal all laws. Now both these liberties are such, as carry along much power with them, either to establish or subvert the commonwealth, and therewith the church, which power, if it be committed to men not according to their godliness, which maketh them fit for church fellowship, but according to their wealth, which, as such, makes them no better than worthy men, then, in case worldly men should prove the major part, as soon they might do, they would as readily set over us magistrates like themselves, such as might hate us according to the curse, Levit. xxvi. 17. and turn the edge of all authority and laws against the church and the members thereof, the maintenance of whose peace is the chief end which God aimed at in the institution of Magistracy. I Tim. ii. i. 2.[77]

This matter was discussed at length, and led to a clearer understanding by each party of the positions of the other, and whether there was any prospect of their modification.

[77] Hazard's Collections, I, 377–381.

Harry Vane, Jr., was the Governor of the Massachusetts Bay Colony, and cognizant with the negotiations as they went along.

He was a son of Sir Henry Vane, who held high official positions in England. The son was himself knighted in 1640, and each took a leading part in the activities of the civil war. The younger Sir Henry was made Governor of the Massachusetts Bay Colony while it was governed by the Warwick patent.

His term of office ended in May, 1637, and there was a strong and successful opposition to his re-election; but he was at once chosen a deputy from Boston to the General Court. In August, 1637, he returned to England, having first joined the church of Boston. After the death of Oliver Cromwell, he became the leader of the Republican party in parliament, and after a stormy career was beheaded, on the Restoration, in 1662.

In the Spring of 1638, it became evident that those who had taken part in the attempt to bring about an agreement had found another mode of proceeding. This was to ask aid from the pulpit. Rev. Thomas Hooker preached a striking discourse on certain principles of civil government. One of these was that the choice of public magistrates belongs to the people, by God's own allowance, and he wound up by crying "as God hath given us liberty, to take it." [78]

It became the custom in Connecticut, at an early stage in its history, when any important question of general interest arose, to consider it in town meetings, and then appoint in each town a committee to meet similar com-

[78] Hartford in History, 76.

mittees from other towns as a state committee for consultation, at which to collect the sense of the State.[79] Long usage has made this a recognized rule of proceeding. It gave voice to the cry for the American Revolution. It was this quality of the town meeting which, for one thing, rendered it impossible to accept the proposals of Lord Say and Lord Brooke, herein described. Their recommendation was that the "gentlemen of the country" might come into all popular assemblies and offer their votes personally, while the freeholders (the second rank) should have the same privilege by their deputies and not in person.

The town meeting speech is the plain man's way of opposition to any plan affecting the administration of the town affairs. It is a popular assembly. These "proposals" seemed to put the deputy over the head of the principal.

In 1654 Robert Basset, in a town meeting at New Haven, made a speech in which this passage occurs:

> Let us have our votes. There is no justice in your New Haven tyranny. We have no English laws or rights. We have no liberties. We have no justice here. We are men-asses for fools to ride, and our backs are well nigh broken. You make laws when you please, and what you please, and give what reasons you please. We are bond men and slaves, and there will no better times for us till our task-masters are well out of the way.[80]

* * * * *

For nearly twenty years after the planting of the colonies the settlers in Connecticut were largely occupied in planning for their own government in church and state. On July 28th, 1628, the Deputy Governor, at a

[79] See Morse: Am. Univ. Geography, 3d ed. Part I, 319, 320.
[80] New England Hist. and Gen. Register, Vol. 24, 36.

meeting of the Corporation, "read certain propositions conceived by himself, viz.:

that, for the advancement of the plantation, the inducing and encouraging persons of worth and quality to transport themselves and families thither, and for other weighty reasons therein contained, to transfer the government of the plantation to those that shall inhabit there, and not to continue the same in subordination to the company here, as now it is. This business occasioned some debate; but by reason of the many great and considerable consequences thereupon depending, it was not now resolved upon; but those present are desired privately and seriously to consider hereof, and to set down their particular reasons in writing *pro* and *contra,* and to produce the same at the next General Court; where, they being reduced to heads, and maturely considered of, the company may then proceed to a final resolution thereon; and in the mean time they are desired to carry this business secretly, that the same be not divulged.

The Company took this up a few weeks later, the point under consideration being "to give answers to divers gentlemen intending to go into New England, whether or no the chief government of the plantation, together with the patent, should be settled in New England or here." The decision was for a removal to New England.

The record of the Company's proceedings indicates that these propositions received their weight largely from the fact that they were thought likely to encourage persons of rank "to transport themselves and families thither." The final result of the discussions of the subject by the Governor and Company of the Massachusetts Bay Colony was the preparation of a questionnaire. This pursued a practice well known in England in that day, where there was a passion for having everything that could be, expressed in writing, and with considerable minuteness.

Lord Say and Lord Brooke were the highest in rank of the men concerned in the settlement of Connecticut. They had a Crown patent, and exercised a great influence over intending colonists. A comparison of the questions and answers shows the association of ideas between them and most of the colonists.

We are fortunate in having a document so illuminative as is this and with such distinctness of expression, come down to us. The questionnaire was arranged and put in shape in 1634, and then was studied with great eagerness by those who would be most affected by its provisions, if adopted. It read thus in its final form:

Certain Proposals made by Lord Say, Lord Brooke, and other persons of quality, as Conditions of their Removing to New-England, with the Answers Thereto.

DEMAND 1. That the commonwealth should consist of two distinct ranks of men, whereof the one should be for them and their heirs, gentlemen of the country, the other for them and their heirs, freeholders.

ANSWER. Two distinct ranks we willingly acknowledge from the light of nature and scripture; the one of them called Princes, or Nobles, or Elders (amongst whom gentlemen have their place) the other the people. Hereditary dignity or honours we willingly allow to the former, unless by the scandalous and base conversation of any of them, they become degenerate. Hereditary liberty, or estate of freemen, we willingly allow to the other, unless they also, by some unworthy and slavish carriage, do disfranchize themselves.

DEM. 2. That in these gentlemen and freeholders, assembled together, the chief power of the common-wealth shall be placed, both for making and repealing laws.

ANS. So it is with us.

DEM. 3. That each of these two ranks should, in all public assemblies, have a negative voice; so as without a mutual consent nothing should be established.

ANS. So it is with us.

DEM. 4. That the first rank, consisting of gentlemen, should have power, for them and their heirs, to come to the parliaments or public assemblies, and there to give their free votes personally; the second rank of freeholders should have the same power for them and their heirs of meeting and voting, but by their deputies.

ANS. Thus far this demand is practiced among us. The freemen meet and vote by their deputies; the other rank give their votes personally, only with this difference, there be no more of the gentlemen that give their votes personally, but such as are chosen to places of office, either governors, deputy governors, councellors, or assistants. All gentlemen in England have not that honour to meet and vote personally in Parliament, much less all their heirs. But of this more fully, in an answer to the ninth and tenth demand.

DEM. 5. That for facilitating and dispatch of business, and other reasons, the gentlemen and freeholders should sit and hold their meetings in two distinct houses.

ANS. We willingly approve the motion, only as yet it is not so practised among us, but in time, the variety and discrepancy of sundry occurrences will put them upon a necessity of sitting apart.

DEM. 6. That there shall be set times for these meetings, annually or half yearly, or as shall be thought fit by common consent, which meetings should have a set time for their continuance, but should be adjourned or broken off at the discretion of both houses.

ANS. Public meetings, in general courts, are by charter appointed to be quarterly, which, in this infancy of the colony, wherein many things frequently occur which need settling, hath been of good use, but when things are more fully settled in due order, it is likely that yearly or half yearly meetings will be sufficient. For the continuance or breaking up of these courts, nothing is done but with the joint consent of both branches.

DEM. 7. That it shall be in the power of this parliament, thus constituted and assembled, to call the governor and all publick officers to account, to create new officers, and to determine them already set up; and, the better to stop the way to insolence and ambition, it may be ordered that all offices and fees of office shall, every parliament, determine, unless they be new confirmed the last day of every session.

ANS. This power to call governors and all officers to account, and to create new and determine the old, is settled already in the

general court or parliament, only it is not put forth but once in the year, viz., at the great and general court in May, when the governor is chosen.

DEM. 8. That the governor shall ever be chosen out of the rank of gentlemen.

ANS. We never practice otherwise, chusing the governor either out of the assistants, which is our ordinary course, or out of approved known gentlemen, as this year Mr. Vane.

DEM. 9. That, for the present, the Right Honorable the Lord Viscount Say and Seale, the Lord Brooke, who have already been at great disbursements for the public works in New-England, and such other gentlemen of approved sincerity and worth, as they, before their personal remove, shall take into their number, should be admitted for them and their heirs, gentlemen of the country. But, for the future, none shall be admitted into this rank but by the consent of both houses.

ANS. The great disbursements of these noble personages and worthy gentlemen we thankfully acknowledge, because the safety and presence of our brethren at Connecticut is no small blessing and comfort to us. But, though that charge had never been disbursed, the worth of the honorable persons named is so well known to all, and our need of such supports and guides is so sensible to ourselves, that we do not doubt the country would thankfully accept it, as a singular favor from God and from them, if he should bow their hearts to come into this wilderness and help us. As for accepting them and their heirs into the number of gentlemen of the country, the custom of this country is, and readily would be, to receive and acknowledge, not only all such eminent persons as themselves and the gentlemen they speak of, but others of meaner estate, so be it is of some eminency, to be for them and their heirs, gentlemen of the country. Only, thus standeth our case. Though we receive them with honor and allow them pre-eminence and accommodation according to their condition, yet we do not, ordinarily, call them forth to the power of election, or administration of magistracy, until they be received as members into some of our churches, a privilege, which we doubt not religious gentlemen will willingly desire (as David did in Psal. xxvii, 4.) and christian churches will as readily impart to such desirable persons. Hereditary honors both nature and scripture doth acknowledge (Eccles. xix. 17.) but hereditary authority and power standeth only by the civil laws of some commonwealths, and yet, even amongst them, the authority and

power of the father is no where communicated, together with his honors, unto all his posterity. Where God blesseth any branch of any noble or generous family, with a spirit and gifts fit for government, it would be a taking of God's name in vain to put such a talent under a bushel, and a sin against the honor of magistracy to neglect such in our public elections. But if God should not delight to furnish some of their posterity with gifts fit for the magistracy, we should expose them rather to reproach and prejudice, and the commonwealth with them, than exalt them to honor, if we should call them forth, when God doth not, to public authority.

DEM. 10. That the rank of freeholders shall be made up of such, as shall have so much personal estate there, as shall be thought fit for men of that condition, and have contributed, some fit proportion, to the public charge of the country, either by their disbursements or labors.

ANS. We must confess our ordinary practice to be otherwise. For, excepting the old planters, i.e. Mr. Humphry, who himself was admitted an assistant at London, and all of them freemen, before the churches here were established, none are admitted freemen of this commonwealth but such as are first admitted members of some church or other in this country, and, of such, none are excluded from the liberty of freemen. And out of such only, I mean the more eminent sort of such, it is that our magistrates are chosen. Both which points we should willingly persuade our people to change, if we could make it appear to them, that such a change might be made according to God; for, to give you a true account of the grounds of our proceedings herein, it seemeth to them, and also to us, to be a divine ordinance (and moral) that none should be appointed and chosen by the people of God, magistrates over them, but men fearing God (Ex. xviii. 21.) chosen out of their brethren (Deut. xvii. 15.) saints (1 Cor. vi. 1.) Yea, the apostle maketh it a shame to the church, if it be not able to afford wise men from out of them selves, which shall be able to judge all matters between their brethren (ver. 5.) And Solomon maketh it the joy of a commonwealth, when the righteous are in authority, and the calamity thereof, when the wicked bear rule. Prov. xxix. 2.[81]

At about the same time, Rev. John Cotton, pastor of the First Church in Boston, wrote to Lord Say and

[81] Hutchinson, History of Massachusetts Bay, I. p. 490.

Seal at some length his views as to the matter in question. We quote from his letter the following passages:

What your Lordship writeth of Dr. Twisse his works *de scientia media,* and of the sabbath, it did refresh me to reade, that his labors of such arguments were like to come to light; and it would refresh me much more to see them here; though (for my owne particular) till I gett some release from some constant labors here (which the church is desirous to procure) I can get litle or noe oppertunity to reade anything or attend to anything, but the dayly occurrences which presse in upon me continually, much beyond my strength either of body or minde. Your Lordships advertisement touching the civill state of this colony, as they doe breath forth your singular wisdome, and faithfulness, and tender care of the peace, so wee have noe reason to mininterprite, or undervalue your Lordships eyther directions, or intentions therein. I know noe man under heaven (I speake in Gods feare without flattery) whose connsell I should rather depend upon, for the wise administration of a civill state according to God, than upon your Lordship, and such confidence have I (not in you) but in the Lords presence in Christ with you, that I should never feare to betrust a greater commonwealth than this (as much as in us lyeth) under such a *perpetua dictatura* as your Lordship should prescribe. For I nothing doubt, but that eyther your Lordship would prescribe all things according to the rule, or be willing to examine againe, and againe, all things according to it. . . . God hath so framed the state of church government and ordinances, that they may be compatible to any commonwealth, though never so much disordered in his frame. But yet when a commonwealth hath liberty to mould his owne frame (*scripturae plenitudinem adoro*) I conceyve the scripture hath given full direction for the right ordering of the same, and that, in such sort as may best mainteyne the *euexia* of the church. . . . The law, which your Lordship instanceth in (that none shall be chosen to magistracy among us but a church member) was made and enacted before I came into the country; but I have hitherto wanted sufficient light to plead against it. . . . Mr. Humfrey was chosen for an assistant (as I heare) before the colony came over hither; and though he be not as yet ioyned into church fellowship (by reason of the unsetlednes of the congregation where he liveth) yet the commonwealth doe still continue his magistracy

to him, as knowing he waiteth for oppertunity of enioying church followship shortly. . . . But your Lordship doubteth, that if such a rule were necessary, then the church estate and the best ordered commonwealth in the world were not compatible. But let not your Lordship so conceyve. For, the church submitteth itselfe to all the lawes and ordinances of men, in what commonwealth soever they come to dwell. But it is one thing to submit unto what they have noe calling to reforme; another thing, voluntarily to ordeyne a forme of government, which to the best discerning of many of us (for I speake not of myselfe) is expressly contrary to rule. Nor need your Lordship feare (which yet I speake with submission to your Lordships better judgment) that this corse will lay such a foundation, as nothing but a mere democracy can be built upon it. Bodine confesseth, that though it be *status popularis*, where a people choose their owne governors; yet the government is not a democracy, if it be administred, not by the people, but by the governors, whether one (for then it is a monarchy, though elective) or by many, for then (as you know) it is aristocracy. In which respect it is, that church government is iustly denyed (even by Mr. Robinson) to be democratical, though the people choose their owne officers and rulers.

Nor neede wee feare, that this course will, in time, cast the commonwealth into distractions, and popular confusions. For (under correction) these three things doe not undermine, but doe mutually and strongly mainteyne one another (even those three which wee principally aime at) authority in magistrates, liberty in people, purity in the church. Purity, preserved in the church, will preserve well ordered liberty in the people, and both of them establish well-ballanced authority in the magistrates. . . . What our brethren (magistrates, or ministers, or leading freeholders) will answer to the rest of the propositions, I shall better understand before the gentlemans returne from Connecticut, who brought them over. Mean while two of the principal of them, the generall cort hath already condescended unto. 1. In establishing a standing councell, who, during their lives, should assist the governor in managing the chiefest affayres of this little state. They have chosen, for the present, onely two (Mr. Winthrope and Mr. Dudley) not willing to choose more, till they see what further better choyse the Lord will send over to them, that so they may keep an open doore, for such desireable gentlemen as your Lordship mentioneth. 2. They have graunted the governor and assistants a negative voyce, and reserved to the freemen

the like liberty also. Touching other things, I hope to give your Lordship further account, when the gentleman returneth.

He being now returned, I have delivered to him an answer to the rest of your demands, according to the mindes of such leading men amongst us, as I thought meete to consult withall, concealing your name from any, except 2 or 3, who alike doe concurr in a joynt desire of yielding to any such propositions, as your Lordship demandeth, so farre as with allowance from the word they may, beyond which I know your Lordship would not require anything.[82]

Mr. Cotton, who came over to New England in 1633, Mr. Hooker and Mr. Stone are pronounced by Governor Hutchinson of Massachusetts as of the most famous men of the religious order. Particular weight must be given to Mr. Cotton's opinions, for he is supposed to have been more instrumental in the settlement of their civil as well as their ecclesiastical polity than any other person. Negotiations with regard to the proposals of the lords were mainly had through Mr. Cotton. Hutchinson, in his History of Massachusetts Bay (I, 42) refers to the legend that some

persons of figure and distinction were expected at this time to come over to New England, but were prevented by express order of the King, as Mr. Pym, Mr. Hampden, Sir Arthur Haslerigg, Oliver Cromwell, &c. I know this is questioned by some authors, but it appears plainly by a letter from Lord Say and Seal to Mr. Vane, and a letter from Mr. Cotton to the same nobleman, as I take it, though his name is not mentioned, and an answer to certain demands made by him, that his Lordship himself and Lord Brooke and others were not without thoughts of removing to New England and that several other persons of quality were in treaty about their removal also, but were undetermined whether to join the Massachusetts or to settle a new colony.

It is obvious that if the proposals of the lords had been accepted, the corporation thus formed would have been

[82] History of Massachusetts Bay, Hutchinson, I, 496–500.

an impracticable venture. They bear testimony to that on their face.

After the ten questions and answers in the proposals of Lord Say and Lord Brooke, came a special reply stating whatever objections had been made, and endeavoring to meet them.[83] The following objection was the main one:

OBJ. If it be said, there may be many carnal men whom God hath invested with sundry eminent gifts of wisdom, courage, justice, fit for government.

ANS. Such may be fit to be consulted with and employed by governors, according to the quality and use of their parts and parts, but yet are men not fit to be trusted with place of standing power or settled authority. Ahithophel's wisdom may be fit to be heard (as an oracle of God) but not fit to be trusted with power of settled magistracy, lest he at last call for 12000 men to lead them forth against David, 2 Sam. xvii, 1, 2, 3. The best gifts and parts, under a covenant of works (under which all carnal men and hypocrites be) will at length turn aside by crooked ways, to depart from God, and, finally, to fight against God, and are therefore, herein, opposed to good men and upright in heart, Psal. cxxv. 4, 5.

OBJ. If it be said again, that then the church estate could not be compatible with any commonwealth under heaven.

ANS. It is one thing for the church or members of the church, loyally to submit unto any form of government, when it is above their callings to reform it, another thing to chuse a form of government and governors discrepant from the rule. Now if it be a divine truth, that none are to be trusted with public permanent authority but godly men, who are fit materials for church fellowship, then from the same grounds it will appear, that none are so fit to be trusted with the liberties of the commonwealth as church members. For, the liberties of the freemen of this commonwealth are such, as require men of faithful integrity to God and the state, to preserve the same. Their liberties, among others, are chiefly these. 1. To chuse all magistrates, and to call them to account at their general courts. 2. To

[83] *Ibid.*, 494.

chuse such burgesses, every general court, as with the magistrates shall make or repeal all laws. Now both these liberties are such, as carry along much power with them, either to establish or subvert the common wealth, and therewith the church, which power, if it be committed to men not according to their godliness, which maketh them fit for church fellowship, but according to their wealth, which, as such, makes them no better than worldly men, then, in case worldly men should prove the major part, as soon they might do, they would as readily set over us magistrates like themselves, such as might hate us according to the curse, Levit. xxvi. 17, and turn the edge of all authority and laws against the church and the members thereof, the maintenance of whose peace is the chief end which God aimed at in the institution of Magistracy. I Tim. ii. 1, 2.

On the vexed question of the admission of freemen under the projected commonwealth who were not church members, the statement is explicit. "A change of this rule we could easily persuade our people to make if we could show them that such a change might be made according to God."

This questionnaire cleared the atmosphere, and put the fundamental questions in a strong light. The fundamental cause of objection to the proposals was their concession to the principles of hereditary privilege and property qualifications. The latter was especially important in New England, for it was so phrased as to make this consist of personal property only. At that time Connecticut was a timber state, its earnings being largely derived from wood and bark, and the main financial transactions of the colony were measured in those commodities. As an investment it was a wasting one in its nature, while that was the case also with the game which ranged the forests. It would have made it hard to meet the taxes by resort to the real estate.

It will be remembered that by the land laws of England, if an estate was to be created in any person the word "heirs" must be used preferably to signify the character of the estate so created, and the word "heirs" by itself (as John Doe and his heirs) has the automatic effect of enlarging his estate to one of inheritance.

The plan for re-constituting the government of Massachusetts having failed, Lord Say and Seal turned his thoughts toward settlement in the Bahama Islands. He had engaged Mr. Humphry, one of the assistants of the Massachusetts Colony, in the design, with the promise of being the governor of the new settlement. A new plan of government was formed, wholly aristocratical, the magistracy being hereditary. It was in consequence re-fashioned, but remained with so little of democracy in it that it did not commend itself to any of the New England colonists.

The men who framed the Constitution of Connecticut in 1639 did not fail to appreciate the importance of their acts. If they stood unchallenged, or if, being challenged, they were not overthrown, a new milestone would be set up on the road of social progress. It was therefore planned from the first to have full records made of all events of public importance leading up to the institution of the new commonwealth and characterizing its future development.

With such views, on October 10, 1639, the General Court passed this order:

For the better keeping in mind of those passages of Gods p^{r}vdence w^{ch} haue beene remarkable since o^{r} first undertaking these plantacons, Mr. Deputy, Capt. Mason, Mr. Stone, Mr. Goodwine, Mr. Chapleyn, and George Hubberd are desired to take the pains serverally in their several Townes and then ioyntly

together, to gather vp the same, and deliver them into the generall Court in Aprill next, and if it be iudged then fitt, they may be recorded; and for future tymes whatsoever remarkable passages shall be yf they be publique, the sayd partyes are desired to deliver in the same to the generall Court. But yf any p^{r}ticular p^{r}son desires to bring in any thing, he shall bring it vnder the handes of two of the afore mentioned p^{r}tyes that it is true, and then present it to the generall Court, that yf it be there iudged requisite it may be recorded; provided that any generall Court for the future may alter any of the partes beforementioned or add to them as they shall judge meet.[84]

It is to be regretted that the committee never reported.

As time went on, the Colonies of Connecticut and New Haven each claimed a title to and authority over all the lands within what it styled its plantations. It soon became evident that if a royal patent was to be granted to any persons or corporation, Connecticut would bear off the prize. New Haven had sought for one in vain, and had exhausted its resources in the effort.

A letter in the State archives from the Connecticut Colony to the New Haven Colony gives a good view of the attitude of each towards the other in 1660. It reads thus:

Honord Gent: This Court haueing receaued information, not only by what appeares in one of yo^{r} Lawes respect: the purchase of land from y^{e} Indians, wherin there is a seeminge challeng of very large intrests of lands, and likewise by what intelligence we haue had of yo^{r} strechting yo^{r} bounds vp towards vs, by markeing trees on this side Pilgroomes Harbour, wch things, as y^{e} intrench vpon o^{r} intrest, soe they are not satisfying or contentful, nor doe we app^{r}hend it a course furthering or strengthining y^{t} freindly correspondency that we desire, and ought to be ppetuated twixt neighbours and confoederates; espetially in that we conceaue you cannot be ignorant of our real and true right to those parts of y^{e}

[84] Colonial Records of Connecticut, I, 39–40.

countrey where you are seated, both by conquest, purchase and possession; and tho: hitherto we haue bin silent, and altogether forborne to make any absolute challenge to o^{r} owne, as before, yet now we see a necessitie at least to reuiue y^{e} memoriall of o^{r} rite and intrest, and therfore doe desire that there may (be) a cessation of further proceed. in this nature, vntil, vpon mature consideration, there may be a determinate settlement and mutuall concurrence twixt yo^{r}selues and this collonie, in reference to y^{e} deviding bounds twixt the two colonies. It is further desired and request^{d} by vs, that if there (be) any thing extant on record w^{t}h you y^{t} may further y^{e} (de)ciding this matter, that it may be produced, and that there may be a time and place appointed, where some deputed for y^{t} end, furnished wth ful power, may meet, y^{t} (so a) loving issue may be effect^{d} to prevent furth(er tro)ubles. And in case there be noe record of grant or allowance from this collony, respecting the surrend^{r}, not only of lands possessed by you and improued, but alsoe such lands as it seemes to vs that you, vnd^{r} some p^{r}tended or assumed right, haue induced by yo^{r} bounds w^{t}hin yo^{r} liberties, that you would be pleased to consid^{r} on some speedy course, wherby a compliance and condescendency to what is necessary and convenient for yo^{r} future comforte may be obtained from vs, the true proprietors of these parts of countrey. We desire yo^{r} returne to o^{r} Gen^{ll} Court, in reference to o^{r} proposit's, with what convenient speed may be, y^{t} soe what is desired by vs in point of mutuall and neighbourly correspondenc, according to y^{e} rules of justice and rightiousnes, may be stil maintained and continued.[85]

Connecticut got into a hotbed of disputations through the grant of the charter by Charles II. On every side and in each corner of the state there was a potential lawsuit, which soon became an actual one. We have given several of the documents a place in this history. They are well written, and the positions taken are well thought out. John Davenport probably inspired most of the letters from New Haven complaining of the grant

[85] New Haven Colonial Records, 1653–1665, 409, note.

of the charter, and Eaton was probably the author of those from the Commissioners of the United Colonies of New-England. The letters were written with spirit, and towards the last, with a certain sensibility and recognition of the trouble that had come to Connecticut by the grant of the charter.

A minority of the planters of New Haven were strongly opposed to the petition of Connecticut for a charter including all the territory of the plantation of New Haven.

At the General Court of May, 1661, the following order was passed:

A writing of John Benhams, which he brought from Guilfors, was presented and reade to the court, with a petition of his owne by way of acknowledgment of his euill and desireing (forgivenes) of the court; being his first offence, hopeing it should be a warninge to him euer after. The court was willing to accept his acknowledgement, prouided that they heard not further against him. Vpon this, the court saw cause to declare as followeth, viz,

That whereas we haue bene occasioned (vpon some reports of grieuance from sundry non-freemen, that just priuilidges and liberties are denied them, which they apprehend is allowed them by our first fundamentall law,) to take the matter into consideratiō, and vpon a serious review of things of this nature, and of our law, wee doe see cause to declare vnto all godly and peaceable inhabitants in this colony, that we are greiued to heare of some vncomfortable mañer of acting by such vnsatisfied persons, in a seeming factious, if not seditious, manner, which we wish that all, (whoe would not be looked vpon as disturbers of our peace, and troublers of our Israell,) to be warned from after appearings in such wise, and wee hope they shall houe noe cause to complaine of any injury by our witholding of just rights, priuilidges or liberties, from any to whom they belong, soe as to hurt the promotion of our cheife ends and interests, professed and pretended by all at our comeing, combineing and setling in New England, as by the Articles of Confederation & otherwise may be made to appeare, which must ingage vs to seeke secure &

advance the same by law, and from which we cañot be perswaded to diuert, soe as to comitt our more weighthy ciuill or military trusts into the hands of either a crafty Achitophell, or a bloody Joab, as some abusiue medlers doe seeme to hint vnto vs, in a paper we met withall, though such should seeme to be better accomplished wth either natural or acquired abilities aboue those that are as well lawfull as intitled freemen, whose earnest desire is, that all planters would make it their serious endeauour to come in by the doore to enjoy all privilidges & beare all burdens equall wth themselues, accoeding to our foundation setlements & vniuersally professed ends, and y^{t} there may be noe disorderly or vncomely attempts to climbe vp another way, or to discourage the hearts or weaken y^{e} hands of such as yet beare the burden of the day in publique trusts, which wilbe aflicting and hurtfull to the ends aforesayd.

The Court taking (the law about distribution of y^{e} estates of those that dy intestate and leaue more children than one,) into consideration, because sometimes there is left a weake widdow, and sometimes a company of weake & small children, & soe thereby many difficulties doe attend, the court therefor did order, that as it is in y^{e} printed law, where there is a widdow & but one child, that one third part of the estate is left to y^{e} discretion of y^{e} court to dispose of, by diuiding it betwixt y^{e} widdow & child, soe now in this case, betwixt the widdow & children, as they shall see cause, onely reseruing liberty of appeales, according to the printed law.[86]

The charter of 1662 was received with enthusiasm at Hartford and with dismay at New Haven. A few months after the grant of the charter to Connecticut, the inhabitants of New Haven and of Connecticut got into a correspondence with regard to the effect of the charter and the covenants in the papers by which the transfer was accomplished. There was injustice in seeking the aid of New Haven to extend the English jurisdiction of Quinnipiac into the size of a small province. It was a breach of faith on the part of Hartford

[86] New Haven Colonial Records, 1653–1665, 403–405.

not to give the New Haven Colony fuller and earlier notice of what was intended. New Haven's case is stated in the following letter to Connecticut, dated November 5th, 1662.

Honored Gent.

We have heard both the patent and that writing read, which those gentlemen (who said they were sent from your general assembly) left with our committee, and have considered the contents according to our capacities. By the one we take notice of their declared sense of the patent, and also of your desire of our uniting with yourselves upon that account, by the other, we understand, that his majesty hath been graciously pleased (at your earnest petition) to grant liberty to the colony of Connecticut to acquire, have, possess, purchase, &c, whatever lands, &c, you have gained or shall gain by lawful means within the precincts or lines therein mentioned; And also, of his abundant grace, to allow and establish you to be one body politick for managing all your public affairs and government, in a religious and peaceable manner, to the intents and purposes by his majesty, and the adventurers therein professed, over all persons, matters and things so gained by purchase or conquest at your own proper costs and charges, according as yourselves informed you had already done. Now whatever is so yours we have neither purpose nor desire to oppose, hurt or hinder in the least; But what ourselves (by like lawful means) have attained as to inheritances, or jurisdiction, as a distinct colony, upon our most solemn and religious covenants, so well known to his majesty, and to all, we must say that we do not find in the patent any command given to you, nor prohibition to us, to dissolve covenants, or alter the orderly settlements of New-England, nor any sufficient reason why we may not so remain to be as formerly; also your beginning to procure and proceeding to improve the patent without us, doth confirm this belief; but rather it seems that a way is left open to us to petition for the like favor, and to enter our appeal from your declared sense of the patent, and signify our grievances. Yet if it shall appear (after a due and full information of our state) to have been his majesty's pleasure so to unite us, as you understand the patent, we must submit according to God; but, for the present, we cannot answer otherwise than our committee hath done, and

like wise to make the same request unto you, that we may remain distinct as formerly, and may be succoured by you as confederates; at least, that none occasion be given by yourselves for any to disturb us in our ancient settlements, until that, either by the honored Mr. Winthrop, by our other confederates, or from his majesty we may be resolved herein;

The term "confederates" in used by New Haven in this communication to signify those four colonies acting under the Articles of Confederation. These "confederates" are also more commonly styled by their full name of "Commissioners of the United Colonies of New England," or simply as "commissioners."

All which means are in our thoughts to use except you prevent, for the gaining of a right understanding, and to bring a peaceable issue or reconcilement of this matter; and we with you had better considered than to act so suddenly, to seclude us from patent privileges at first, if we are included, as you say, and to have so proceeded since, as may seem to give advantage unto disaffected persons to slight or disregard oaths and convenants, and thereby to rend and make division, manage contention and troubles in the townships and societies of this colony, and that about religious worship, as the inclosed complaint may declare, which seems to us a great scandal to religion before the natives, and prejudicial to his majesty's pious intention, as also to hold forth a series of means very opposite to the end pretended, and very much obscured from the beauty of such a religious and peaceable walking among English brethren, as may either invite the natives to the christian faith or unite our spirits in this juncture; and this occasion given before any conviction tendered, or publication of the patent among us, or so much as a treaty with us in a christian, neighbourly way. No pretense for our dissolution of government till then could rationally be imagined. Such carriage may seem to be against the advice and mind of his majesty in the patent; as also of your honored governor, and to cast reflection upon him, when we compare these things with his letters to some here, for the avoiding whereof we earnestly request that the whole of what he hath written to yourselves, so far is it may respect us in this business, may be fully communi-

cated to our view in a true copy or transcript of the same. We must profess ourselves grieved hereat, and must desire and expect your effectual endeavours, to repair these, breaches, and restore us to our former condition as confederates, until that by all, or some of these ways intimated we may attain a clear resolution in this matter. Unto what we have here propounded we shall add, that we do not in the least intend any dislike to his majesty's act, but show our sense of your actings first and last so much to our detriment, and to manifest the consequent effects to God's dishonour, as also to give you to know how we understand the patent, hoping that you will both candidly construe, and friendly comply, with out desires herein, and so remove the cause of our distraction and sad affliction, that you have brought upon this poor colony; then shall we forbear to give you further trouble, and shall pray to the God of spirits to grant us all humility, and to guide us by his heavenly wisdom to a happy issue of this affair in love and peace. Resting

Gent. your very loving friends and neighbours,
The freemen of the colony of New-Haven.

Per James Bishop, *Secretary,* In the name and by order and consent of the committee and freemen of New-Haven colony.[87]

A committee had been constituted shortly before to represent the colony, now faced with extinction, unless Connecticut would consent to their remaining a political entity under a continuance of their charter. Meanwhile there was no governor who could sign an official letter to bind the colony, no secretary who could assume to use the title of secretary, and the subscription of the letter was "The freemen of the colony of New-Haven, per James Bishop, Secretary."

A long series of discussions followed this complaint of New Haven against the action of Connecticut, and on May 6th, 1663, came another letter subscribed this time in "the name and order of the General Court of New Haven."

[87] Trumbull, History of Conn., Appendix, X.

Gent.

The professed grounds and ends of your and our coming into these parts are not unknown, being plainly expressed in the prologue to that solemn confederation entered into by the four colonies of New-England, printed and published to the world, viz. to advance the kingdom of our Lord Jesus Christ, and to enjoy the liberties of the gospel in purity with peace, for which he left our dear native country, and were willing to undergo the difficulties we have since met with, in this wilderness, yet fresh in our remembrance; being the only ends we still pursue, having hitherto found by experience so much of the presence of God with us, and of his goodness and compassion towards us in so doing, for these many years. Yet considering how unanswerable our returns have been to God, how unfruitful, unthankful, and unholy under so much means of grace, and such liberties we cannot but lament the same, judge ourselves, and justify God, should he now at last (after so long patience towards us) bring desolating judgments upon us, and make us drink of the dregs of that cup of indignation, he hath put into the hands of his people in other parts of the world, or suffer such contentions (in just displeasure) to arise among us, as may hasten our calamity, and increase our wo; which we pray the Lord in mercy to prevent. And whereas in the pursuance of the said ends, and upon other religious and civil confiderations, as the security of the interest of each colony within itself in ways of righteousness and peace, and all and every of the said colonies from the Indians and other enemies, they did judge it to be their bounden duty for mutual strength and helpfulness for the future in all their said concernments, to enter into a consociation among themselves, thereupon fully agreed and concluded by and between the parties or jurisdictions in divers and sundry articles, and at last ratified as a perpetual confederation by their several subscriptions, where unto we conceive ourselves bound to adhere, until with satisfaction to our judgments and consciences we see our duty, with like unanimous consent of the confederates orderly to recede, leaving the issue unto the most wise and righteous God.[88]

In 1683 a writ of *quo warranto* was issued to secure the forfeiture of the Massachusetts charter. For this

[88] New Haven Colon. Rec. II. 480.

was soon substituted a writ of *scire facias*. Judgment of forfeiture was rendered in 1684, and in anticipation of the coming changes the General Court of Connecticut passed in 1685 the following statute:

This Court for the prevention of future trouble, and that every township's grants of land as it hath been obteyned by gift, purchass or otherwayes, of the natives and grant of this Court, may be setled upon them, their heires, successors and assigns forever, according to our charter granted by his late Ma^tie^ of happy memory, This Court doth order that every township in this colony shall take out Pattents for their sayd grants, of the Governo^r^ and Company, which this Court doth hereby order shall be granted unto them.[89]

Dr. Franklin, in 1763, when the promoters of the Connecticut settlements in Pennsylvania were trying to get a charter for the Susquehanna Company from England, predicted that they would be disappointed. The claim of Connecticut, he said, to "all the Lands to the West Seas was Idle and Ridiculous—that no Person could pretend to think it consistant w^th^. Common Sence to have a Governm^t^ 60 miles wide & 3000 miles Long."[90]

The following letter shows the final attitude towards the Colony of New Haven, taken after the grant of the Connecticut charter, by the Commissioners of the United Colonies.

Hartford, September 2^d^, 1664.

Much Hon^rd^ Gent^n^. We understand by o^r^ Comm^rs^ that New Haven Gent^n^ have p^r^sented an order (as they call it) of their Gen^ll^ Court, whereby it appears Mr. Leet & Mr. Joanes are chosen Com^rs^, and inuested w^th^ power to act as Com^rs^, for New Hauen Colony. Upon this information we thought good to

[89] New Haven Historical Society Papers, IX, 93.
[90] Letter of Joseph Chew to Jared Ingersoll, New Haven Colony Historical Society Papers, IX, 286.

p^r^sent o^r^ thoughts unto your consideration. Wee cannot approue of the afoarmentioned Gent^n^ to sitt as Com^rs^ amongst you; because it doth not appear that they are a Colony, or haue any power of government distinct from us, confirmed by regall authority. And we know no other gouernment in his Majesties dominions but such as is confirmed by him. They being noe gouerment as afores^d^, we cannot but judg it will be prejudiciall to the severall colonyes, & o^r^ charter, to owne & approue of that Gouerment of New Haven. Besides we doe claim them to be parte of o^r^ colony, being included in his Majesties Royall Grant.

And we doe hereby declare that we shall haue a tender respect to o^r^ Hono^rd^ Freinds & bretheren of New Haven, & shall apply o^r^selues to improue o^r^ all to accomadate them w^th^ all such desireable priviledges as o^r^ charter affordes.

Farther we thought it conuenient to informe your Wor^ps^ that it is o^r^ desire still to maytaine o^r^ Confederation w^th^ the vnited Colonyes of Massachusets & New Plimoth, desireing that full prouission may be made to that purpose, according to that article of the Confederation that allowes of two colonies vniteing into one, which is consonant to y^e^ advice of the Com^rs^ & the Honoured Court of Massachusetts to this Colony.

Gent^n^, we rest your Freinds & Seruants,
John Allyn, Secretary, in the name
& by the order of the Councill of
Conecticutt.[91]

On September 13, 1664, the Commissioners of the United Colonies of New England took the following action:

The Comissioners of Conecticott doe not approue of the Comissioners of New-hauen as sent from a distinct jurisdiction nor of theire acting as such;

The rest of the Comissioners seing noe ground for such there Deniall doe approue of the actings of the Comissioners of New hauen as being consonant to the articles of Confeaderation.[92]

The Colony, or jurisdiction, of New Haven grad-

[91] Colonial Records of Connecticut, 1678–1689, 480, 481.
[92] Hazard's Collections, 2, 500.

ually passed out of existence. This was the simplest and best way of adjusting the dispute with Connecticut.

The last effort of the New Haven people to keep their colonial status unimpaired appears from the following action of the Council of Connecticut in September, 1664:

At a Councill, Hartford, Sept^{r} 2^{d}. 1664.

Major Mason Dept Gou.
M^{r} Allyn.
M^{r} Willys.
Capt. Tallcott.
M^{r} Woolcott.
John Allyn.

Much Honoured Gent^{n}.: We understand by our Commissioners that Newhauen gent^{n} haue presented an order (as they call it) of their Generall Courte, whereby it appeares M^{r} Leet and M^{r} Joanes are chosen Comissioners and inuested wth power to act as com^{rs} for New Hauen Colony. Vpon this information we thought good to present o^{r} thoughts unto your consideration. We cannot approue of the afore mentioned gent^{n} to sitt as com^{rs} amongst you, because it doth not appeare that they are a colony or haue any power of gouerment distinct from us, confirmed by regall authority, and we know no other gouerment in his Majesties dominions but such as is confirmed by him. They being no gouerment as afoarsayd we cannot but judge it will be prejudiciall to the seuerall colonyes and our charter to owne and approve of the gouerment of N.Hauen. Besides we doe clayme them to be a parte of o^{r} Colony, being included in his Majesties royall grant, and we doe hereby declare that we shall haue a tender respect to o^{r} honoured friends and bretheren of New Haven, and shall apply o^{r}selues to improue o^{r} all to accomadate them wth all such desirable priuiledges as o^{r} charter afoardes. Farther we thought it conuenient to informe your hono^{rs} that it is o^{r} desire still to mayntaine o^{r} confederation wth the Vnited Colonyes of Massachusets and New Plimoth, desireing that full prouision may be mavfe to that purpose, according to that article of the confederation. that allowes of two colonyes vniteing into one, which is consonant to y^{e} aduice of the Com^{rs} and y^{e} honoured Courte of Massachusets to this Colony. Gent^{n} we rest your friends and seruants.

JOHN ALLYN, Secret^{r}y,
By order of the Councill of Conecticutt.

The Council ordered the Secretary to "signe this lett^r" in theire names, and by their order to deliuer it to the Commissioners.

Whereas we haue the 2^d of this instant in a writting presented to the much honoured the Com^rs of the Vnited Colonyes, made clayme to the late Colony of New Hauen, as being included in his Majesties royall grant in his letters pattents to this his Colony of Conecticutt and allso haue formerly upon publication of our charter, required theire attendance thereunto. Wee doe now in the presence of the hono^rd Com^rs afoarsayd, in his Majesties name demande W^m Leette and W^m Joanes, Esq^rs, they being the representiues of the people of New Hauen &c, that they and the rest of the people of Newhauen, Milford, Brandford, Guilford and Stanford, doe attend y^e gouerment establisht by his Majestie in this his Colony of Conecticutt, and we purposse by the help of God to apply o^rselues to take due care of them, and to affoarde them all such priuiledges as are agreeable to o^r charter. In the name and by order of the Councill of the Colony of Conecticutt,

For M^r Leete and M^r Joanes

JOHN ALLYN, Sec^ry.[93]

Psychology has become a favorite interpreter of history. The tendencies of modern life go to intensify every form of human activity. The actors in it must give to it more concentrated attention, and they often give to it, in consequence, an exaggerated importance. They are more concerned with causes than with effects; with immediate effects than with remote ones. They look for results that can be numbered and labeled with some degree of apparent certainty. The working of these tendencies has done wonders in the field of mechanical industry and has stimulated scientific discovery. It has consolidated the spirit of collectivism. It has bound continents together by electric force, and refeatured the outlines of civilized society. Under these influences a school of philosophy has been built up which

[93] Colonial Records of Connecticut, 1774–1776, 539–540.

would regard the doings of mankind as determined in the main by the presence of social forces from which there is no escape; but as man is influenced by his surrounding circumstances, so are his surrounding circumstances influenced by man. There is a psychological force that cannot be weighed nor measured. For time and the final conclusion remain the same. There is enough of truth in this historic materialism, or, as it is better named, economic interpretation of history, to make it attractive to many thoughtful and serious minds.

Given certain material considerations, and there have necessarily followed certain material events. The occasional appearance on the scene of some great leader of men may defer such movements, or even disarrange them, for the time, but the laws of the universe are not algebraic equations; they interlace themselves with other things. When Connecticut sat down beside Massachusetts to found a colony, her leaders knew that the course of human history made it probable that she would be absorbed eventually by her strong neighbor. There was a chance of survival. Connecticut had pledged herself to perpetuity of existence, but it was a self-given pledge. The absorption of New Haven into Connecticut was to be expected, but hardly so soon.

One of the muniments of title of Rhode Island is a patent for the incorporation of Providence Plantation, granted November 2, 1643 by the Parliament of the Commonwealth of England. It reads as follows:

Whereas by an Ordinance of the Lords and Commons, now assembled in Parliament, bearing Date the Second Day of November, Anno Domini 1643, Robert Earl of Warwick, is constituted, and ordained Governor in Chief, and Lord High Admiral

of all those Islands and other Plantations inhabited or planted by, or belonging to any His Majesty the King of England's subjects (or which hereafter may be inhabited and planted by, or belonging to them), within the Bounds, and upon the Coasts of America. And whereas the said Lords have thought fit, and thereby ordained, that Philip Earl of Pembroke, Edward Earl of Manchester, William Viscount Say and Seal, Philip Lord Wharton, John Lord Rolle, Members of the House of Peers, Sir Gilbert Gerrard, Baronet, Sir Arthur Haslerig, Baronet, Sir Harry Vane, Jun. Knight, Sir Benjamin Rudyard, Knight, John Pim, Oliver Cromwell, Dennis Bond, Miles Corbet, Cornelius Holland, Samuel Vassal, John Rolle, and William Spurstow, Esqrs, Members of the House of Common, should be Commissioners, to join in Aid and Assistance with the said Earl. And whereas for the better Government and Defence, it is thereby ordained, that the aforesaid Governor and Commissioners, or the greater Number of them, shall have Power and Authority from Time to Time to nominate, appoint, and constitute all such subordinate Governors, Counsellors, Commanders, Officers and Agents, as they shall judge to be best affected, and most fit and serviceable for the said Islands and Plantations; and for the better Security of the Owners and Inhabitants thereof, to assign, ratify, and confirm, so much of their aforementioned Authority and Power, and in such Manner, and to such Persons as they shall judge to be fit for the better governing and preserving of the said Plantations and Islands, from open Violences and Private Disturbances and Distractions. And whereas there is a Tract of Land in the Continent of America aforesaid, called by the Name of the Narraganset-Bay; bordering Northward and Northeast on the Patent of the Massachusetts, East and Southeast on Plymouth Patent, South on the Ocean, and on the West and Northwest by the Indians called Nahigganneucks, alias Narragansets; the whole Tract extending about Twenty-five English Miles unto the Pequot River and Country.

And whereas divers well affected and industrious English Inhabitants, of the Towns of Providence, Portsmouth, and Newport in the tract aforesaid, have adventured to make a nearer neighborhood and Society with the great body of the Narragansets, which may in time by the blessing of God upon their Endeavours, lay a sure foundation of Happiness to all America. And have also purchased, and are purchasing of and amongst the said Natives, some other Places, which may be convenient

both for Plantations, and also for building of Ships Supply of Pipe Staves and other Merchandize. And whereas the said English, have represented their Desire to the said Earl, and Commissioners, to have their hopeful beginnings approved and confirmed, by granting unto them a free Charter of Civil Incorporation and Government; that they may order and govern their Plantation in such a Manner as to maintain Justice and peace, both among themselves, and towards all Men with whom they shall have to do. In due Consideration of the said Premises, the said Robert Earl of Warwick, Governor in Chief, and Lord High Admiral of the said Plantations, and the greater Number of the said Commissioners, whose Names and Seals are here under-written and subjoined, out of a Desire to encourage the good Beginnings of the said Planters, Do, by the Authority of the aforesaid Ordinance of the Lords and Commons, give, grant, and confirm, to the aforesaid Inhabitants of the Towns of Providence, Portsmouth, and Newport, a free and absolute Charter of Incorporation, to be known by the Name of the Incorporation of Providence Plantations, in the Narraganset-Bay, in New England.—Together with full Power and Authority to rule themselves, and such others as shall hereafter inhabit within any Part of the said Tract of Land, by such Form of Civil Government, as by voluntary consent of all, or the greater Part of them, they shall find most suitable to their Estate and Condition; and, for that End, to make and ordain such Civil Laws and Constitutions, and to inflict such punishments upon Transgressors, and for Execution thereof, so to place, and displace Officers of Justice, as they, or the greater Part of them, shall by free Consent agree unto. Provided nevertheless, that the said Laws, Constitutions, and Punishments, for the Civil Government of the said Plantations, be conformable to the Laws of England, so far as the Nature and Constitution of the place will admit. And always reserving to the said Earl, and Commissioners, and their successors, Power and Authority for to dispose the general Government of that, as it stands in Relation to the rest of the Plantations in America as they shall conceive from Time to Time, most conducing to the general Good of the said Plantations, the Honour of his Majesty, and the Service of the State. And the said Earl and Commissioners, do further authorize, that the aforesaid Inhabitants, for the better transacting of their public Affairs to make and use a public Seal as the known Seal of Providence-Plantations, in the Narraganset-Bay, in New England. In Testimony whereof, the said Robert

Earl of Warwick, and Commissioners, have hereunto set their Hands and Seals, the Fourteenth Day of March, in the Nineteenth Year of the Reign of our Sovereign Lord King Charles, and in the Year of our Lord God, 1643.

Robert Warwick,	Arthur Haslerig,	John Rolle,
Philip Pembroke,	Cor. Holland,	Miles Corbet,
Say and Seal,	H. Vane,	W. Spurstow.[94]
P. Wharton,	Sam Vassal,	

It will be observed that among the "Commissioners" thus appointed by the Lords, John Pym and Oliver Cromwell are included, and that the Earl of Warwick was ordained "Governor in Chief, and Lord High Admiral of all those Islands and other Plantations inhabited or planted by, or belonging to any His Majesty the King of England's subjects, (or which hereafter may be inhabited and planted by, or belonging to them), within the Bounds, and upon the Coasts of America." The reservation is also important to the Earl and the Commissioners and their successors to govern the plantation, which was the principal subject of the patent, as it stands in relation to the rest of the plantations in America. The date 1643 is equivalent to 1644 Old Style.

In June, 1754, commissioners appointed by Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Pennsylvania and Maryland assembled at Albany for the purpose of forming a plan of union. Such a plan was drawn up by Dr. Franklin, and advocated with his great address, and received the assent of all the commissioners except those of Connecticut, who were strenuously opposed to the extensive powers granted to the president-general, who was to be appointed by the crown. The following statement of the

[94] Thorpe, American Charters, Constitutions and Organic Laws, 1492–1908, Vol. 6, p. 3209.

matter is from Pitkin's History of the United States, vol. ii. p. 145.

> The people of Connecticut, in particular, had too long been accustomed to make their own laws, independent of royal authority, to approve of the veto of the president-general. They declared that this might bring his majesty's interest in danger; that officer, in so extensive a territory, not well understanding or carefully pursuing proper methods for the country's good, all might be ruined before relief could be had from the throne, and that the council, from the respective colonies, were most likely to understand the true interest and weal of the people.

They considered, also the power to levy taxes through so extensive a territory, vested in the president and council, as against the privileges and rights of Englishmen; and that such an innovation in charter-privileges would discourage the industry of the inhabitants, who were jealous of their rights.

The assembly not only refused to apply to Parliament for an act confirming this plan, but instructed their agent to oppose any such act if applied for by the other colonies. In opposing it, Connecticut was true to herself and her traditions. She was determined to remain a free, sovereign and independent commonwealth, governed by her own local laws.

The work of the Albany Convention, or Congress, proved fruitless. No colony adopted its plan. It looked dangerous to the Crown's possessions, and too republican to suit the Colonies, which had no possessions. The aristocratic party in the various colonies thought that it was too republican and the democratic party regarded it as making too much of its tendencies toward aristocracy. Each party was afraid that it might lead the sentiment of the Colonies to untenable positions. It

William Samuel Johnson, LL.D.,
President of Columbia College, 1787–1800
One of Connecticut's Most Distinguished Sons—Legislator,
Jurist, Statesman, Diplomat, Scholar.

would not have been confederation so much as consolidation.

In June, 1765, a congress of commissioners from the Colonies met for consultation regarding the condition of the Colonies under the oppressive acts of Parliament then recently passed. An address to the king was prepared, which was drawn up by William S. Johnson, one of the most distinguished sons of Connecticut. The Connecticut legislature in their instructions to their agent in London, said:—

> We can by no means be content that you should give up the matter of right, but must beg that you would on proper occasions claim and firmly insist on the exclusive right of the colonies to tax themselves, and the privilege of trial by jury; and to maintain these principles in the most effectual manner possible, as what we never can recede from.[95]

Reverend Samuel Johnson, President of King's College in New York from 1754 to 1763, wrote this letter to the Archbishop of Canterbury in 1760.

May it please Your Grace,

The great kindness and condescension with which Your Grace hath permitted, and even required, me to write to you on the affairs of the Church in these parts of the World, will, I humbly trust, be admitted as some apology for my troubling you so often, and with such long Letters; tho' I am not without fears of being thereby tempted to take liberties that may not become me, perhaps rather expose me to Your Grace's Censure, as using too great an assurance; particularly in sending You the papers enclosed.— In my retirement the last winter at Stratford, having little to do, I did, in consequence of some conversation with some gentlemen of good understanding and public Spirit, and at their request,

[95] Wm. C. Fowler: Local Law in Connecticut: N. E. Hist. and Gen. Register, Vol. 24, p. 138.

draw up the enclosed paper, with a view at first, of publishing it in the London Magazine: but upon second thoughts, I doubted whether we were proper judges, either of the propriety of such a scheme, or in what manner, or whether at all, it would be fit to publish it. I apprehended if any thing were done with it, it would be best to do nothing without Your Grace's approbation; and therefore, upon their further desire, I concluded, relying on your great Candor, to presume to transmit it to Your Grace to do with as you should think proper, either in suppressing or communicating it: and as we had made copies of it to the Earl of Halifax and M^r^ Pitt, I presume also to enclose them to be either suppressed or sent, as Your Grace, who can best judge, shall think proper: some small additions were made in this enclosed draught. This I confess, My Lord, is too great a stretch of assurance, but I humbly hope Your Grace will forgive it, and impute it to the feeble struggles of a well-meaning mind that would be useful to the world if it could, but desires to be retired & concealed.—I can only assure Y^r^ Grace, that is the wish of many gentlemen in these Colonies, that something to this effect may be done for us, tho' but few, (in confidence), know any thing of my taking this step.

While I was in Connecticut, about six months, I had opportunity to know much of the condition of the Church in those parts, & therefore thought I could be a little more particular in giving Your Grace an account of it.—The Church is generally, in a flourishing and increasing condition; and much more so, on occasion of the violent contention of the Dissenters among themselves, which in effect, drive people into the Church. The Walling affair was again before the Assembly last May, and the lower house were still more zealous in the cause of the minor party, which seems the prevailing disposition of the Country; so that there will probably be a great struggle to get out the Governor and several of the Upper house for not favoring them: and I here send Your Grace two pamphlets relating to these controversies that have been published since my last.

The parties are both upon bad extremes; Hart & Gale &c. are followers of Taylor Foster &c. and I doubt Socinianism is at the bottom, and the President, Hobart &c. are most rigid Calvinists, and intent at any rate to oppose the others to their utmost.—Meantime the Church is every where in peace and the Clergy orthodox; only I find there are some of the leading laity in good M^r^ Palmer's district that are infatuated with what is here called

Taylerism, i. e. Socinianism and Pelagianism, and they are somewhat disaffected, I believe without reason, towards their Minister for preaching against those errors, charging him with Calvinism: and perhaps he may be a little too warm.—On these accounts I advised Mr Beach to preach at their Convention in Trinity Week, in defence of the Trinity and against those loose notions, which he did, to good acceptance, and it is to be published, a Copy of which, I shall send Your Grace when I write next.

It is a great detriment to the Churches at Middletown and Wallinford that Mr Camp hath left them, induced partly by his necessities, and partly by the persuasion of Governor Dobbs to move to North Carolina: How they will be supplied I am at a loss. They ought each to have a Minister. And I wish the Society were in a condition to settle at least 40 pounds on the former and 30 on the latter, who hope for one Mr Andrews, a candidate of a good Character. And one Treadwell, said to be a worthy Youth, hath lately appeared for the Church, both bred at New Haven College, where I found 3 or 4 hopefull young men preparing for Orders.—Mr Punderson seems a very honest and laborious man, yet the Church at New Haven appears uneasy and rather declining under his Ministry, occasioned, I believe, partly by his want of politeness, and partly by his being so much absent, having 5 or 6 places under his care. I wish he was again at Groton, and some politer person in his place, and another at Guilford and Branford.

There are now 30 Churches in that Colony (tho' but 14 Ministers) there being 3 or 4 new ones; one of which is a third within the bounds of Stratford, in a remote corner, 10 miles from one, and eight from the other, under the care of Mr Newton, who desires me to intercede for a few prayer books and small practical tracts for them, being poor and some of them dissolute: and as he has this additional labor, I wish the Society could add 10 pounds to his Salary, being both laborious & needy.—The more I know of Mr Winslow, the more I am pleased in him as my successor: He excels all the Clergy in that Colony, as a Preacher, and is behind none of them in discretion and good Conduct: and being Rector of the first Church there, and is otherwise duly, if not the best, qualified, I wish, when Commissaries are appointed, he may be the Commissary, being also of most creditable family & education: and as he has a large, young growing family, and is obliged in that situation to live at the most expense of any of

them, it would be highly expedient, if practicable, to add 10 pound more to his support.

And here, My Lord, I beg leave to add a few words of that Colony in general though it might perhaps hurt the Chh were I known to write too freely. I am humbly of opinion, that every thing being taken into the account, That, for its bigness, is the best of all His Majesty's provinces in America. All the disadvantages it labors under, are owing to its wretched constitution, being little more than a mere democracy, and most of them upon a level, and each man thinking himself an able divine and politician: hence the prevalency of rigid enthusiastical and conceited notions and practices in religion, and republican and mobbish principles & practices, next door to Anarchy in polity: and hence frequent feuds and factions in both; and every thing is managed by profound Hypocricy & Dissimulation: so that they may, in effect, be called a Commonwealth of Hypocrites.—I speak of the prevailing bulk, who all conspire to keep men of true, sober and honest principles and integrity out of places, and such indeed, as things go, abhor to have any hand in their public Affairs; the rest having almost lost all notion of any King or Kingdom to which they are accountable.—This state of things makes multitudes very inquisitive after better principles, and many, from too much indignation, run into the wild extremes of boundless latitude and free thinking, while many, (I hope the most of those that are inquisitive), seem disposed to sit down in the Golden mean, the Church of England, if they could be provided for.—So that it is of the utmost importance for the best Weal of that Colony and its Eastward Neighbors that the Church be propagated, and, if possible, supported: & if at the same time their Charters were demolished, & they could be reduced under the management of wise and good Governors and Council appointed by the King, I believe they would, in a little time, grow a good sort of people, and be the best of all the provinces. . . .[96]

This letter contained as an enclosure a paper of great political significance. It was an old story in a new dress. It was thought by many that the Colony was too small to support itself, and that to consolidate it with

[96] Documents relating to the Colonial History of the State of New York, VII, 438–440.

some of the other New England Colonies or with New York, or perhaps Pennsylvania, would be the best thing to be done. This, as Dr. Johnson said in his letter, was not to be done "without your Grace's approbation; and therefore . . . I presume to transmit it to your Grace, to do with as you think proper, either in suppressing or communicating it; and as we had made copies of it to the Earl of Halifax and Mr. Pitt, I presume also to enclose them to be either suppressed or sent, as your Grace, who can best judge, shall think proper. . . . This, I confess, my Lord, is too great a stretch of assurance, but I humbly hope Your Grace will forgive it, and impute it to the feeble struggles of a well-meaning mind that would be useful to the world if it could, but desires to be retired and concealed. . . ."

The enclosed paper was as follows:

Questions relating to the Union and Gov^{t} of the Plantations.

To the Author of the London Magazine.

As I have at once a most intense affection for this my native country and the highest veneration for our ancient Mother Country, I beg leave by your very useful collection, humbly to suggest to the consideration of the public, the following Queries relating to what I apprehend may be of the utmost consequence to these American Colonies.

Query 1st. Whether it be not of very great importance to the weal of the Mother Country that she do now, in consequence of the peace enter upon the consideration of what may most contribute to the best future and joint weal of these her daughters?

2d. Whether it would not be of great advantage to the best weal of the daughters that their constitution or form of government should be as near as possible the same one with another, and all, as near as may be conformable to that of the Mother?

3d. Whether, since it is not very probable that they would

agree among themselves, to any variation from their present model, it would not become the wisdom and goodness of the Mother, by an Act of her Legislature to establish a model for them?

4th. In doing this, she would doubtless proceed with as great tenderness as could consist with the public good, but Qu: whether it is for the best public good, that the Charter Governments should continue in their present Republican form, which is indeed pernicious to them, as the people are nearly rampant in their high notions of liberty, and thence perpetually running into intrigue and faction, and the rulers so dependent on them that they in many cases are afraid to do what is best and right for fear of disobliging them?

5th. Whether, therefore, it might not consist with all proper tenderness, by an Act of the Legislature at home, to oblige them to accept of a model that would reduce them to a nearer resemblance to their mother and sisters? And whether this might not in all reason be done, without giving umbrage for any dark apprehensions to the Corporations at home?

6th. The Colonies of Massachusetts, Rhode Island and Connecticut are nearly allied in their situation, principles and interests, nor does there appear any manner of reason why the two latter should not be contented, at least with the like constitution with the former. . . .

It was finally stated by Dr. Johnson that some gentleman of great dignity and worth should be appointed by the King as Viceroy or Lord Lieutenant, residing at New York. He suggests also that the Colonial legislature send commissioners to the Lord Lieutenant to consult with regard to the furtherance of the stability of the union.[97]

The letter shows that there was not much sympathy between Dr. Johnson and the people of Connecticut, as far as he was concerned; and he was a man of wide influence. His characterization of Connecticut as a com-

[97] Documents relating to the Colonial History of the State of New York, VII, 441–443.

monwealth of hypocrites was hardly supported by popular opinion.

Dr. Johnson's recommendations were in the direction of aristocracy, which had few friends in the Connecticut State House.

Chapter II

SECESSION OF SPRINGFIELD—MASSACHUSETTS COMMISSION—BOUNDARIES—TREATY OF HARTFORD—ARTICLES OF CONFEDERATION

MASSACHUSETTS never had among her people a larger proportion of men of mark, ambitious and deserving of high station and wide influence in public life, than in 1633.

The Colony at this time reached hardly as far as thirty miles from the sea coast. It had a slender population, mainly of poor people. Cotton said that its greatest poverty was a poverty of men. Cotton Mather spoke of it later as at this time "like an hive overstocked with bees." [1] A vote of the freemen of Watertown, on August 30, 1635, serves to corroborate this assertion, though evidently drawn to put on record a justification for what might be claimed to be an act of selfishness and unfair exclusion. It reads thus:

> Agreed by the consent of the freemen (in consideration there be too many inhabitants in the Towne, & the Towne thereby in danger to be ruinated) that no forrainer comming into the Towne, or any family arising among ourselves shall have any benefit either of Commonage or Land undivided, but what they shall purchase, Except that they buy a man's right wholly in the Towne.[2]

Wherever the truth in these respects may lie, the Colony was rich, too rich, in political leaders. Differences between these—partly honest differences of policy,

[1] Magnalia (1820), i. 74.
[2] Bond, Genealogies and History of Watertown, p. 995.

and partly personal rivalries—led to the emigration in 1635 and 1636 to the banks of the Connecticut River.

The General Court of the Colony consented to it only with the proviso that the emigrants should continue under its government, and on March 31, 1636, a commission was issued to "Roger Ludlowe Esq^{r}, Will^{m} Pinchon Esq^{r}," and six others not given that suffix of distinction, or the greater part of them, to order for one year "the affaires of the said plantacon," with power "to convent" the inhabitants, from time to time, in the form of a court. All this, however, was expressly declared to be without prejudice to the rights held under the Earl of Warwick's patent of 1631. These were possessed by several men of rank and distinction, including Lord Saye and Sele, Lord Brooke, John Pym and John Hampden, who were then about to erect a trading post and fort at Saybrook.[3]

Ludlow and Pyncheon had both been assistants in the Colony. Ludlow had also served as Deputy-Governor, and Pyncheon as Treasurer.

This emigration was an emigration of communities rather than of individuals.

The church was the center and soul of the early New England town. The pastors of the church were leaders in all public affairs. Of the clergy of the Bay settlements at this time, a majority favored the policy of confining suffrage to church members. A vigorous minority were opposed to it, and carried with them many of the laity, including several of those who stood first in respect to property, station, and public influence. Those embracing their views were especially numerous in Newtown, Watertown, and Dorchester, and these

[3] Massachusetts Colony Records, i. 170.

three settlements (for they were hardly yet to be called towns) were in large part transferred from the banks of the bay to the banks of the great river. The seceders carried the town names with them, and each of the three new settlements maintained its separate existence as a village community. That they might carry the ark of their covenant with them, each company of planters sought to bear off with them their church organization.[4]

Two succeeded. The Newtown church had been formed in 1633. The Rev. Thomas Hooker, its pastor, was a leader in the emigration movement, and a plan was arranged by which the Rev. Thomas Shepard, who afterwards became his son-in-law, should organize a new church to take the place of his. This was accomplished February 1, 1635–36, and its members, several of whom had come over from England with Mr. Shepard in the previous autumn, bought the houses to be vacated by the Hooker party, to their mutual advantage.[5] In the following June the old church was removed, to become the First Church of Newtown in Connecticut.[6]

The pastors of the Dorchester church did not favor the scheme of removal. One of them, however, died in March, 1636, and the other was swept off with the tide of his people. The Dorchester church of Massachusetts therefore became the Dorchester church of Connecticut, although on August 23, 1636, a new church was formed to take its place in the old colony.[7]

[4] Trumbull, History of Connecticut, i. 11.

[5] Johnson, Wonder-working Providence, pp. 75, 77; Holmes, History of Cambridge, 1 Massachusetts Historical Collections, vii. 15, 16; Contributions to the Ecclesiastical History of Connecticut, p. 86 note.

[6] Winthrop's Journal (1853), i. 214 note.

[7] 1 Massachusetts Historical Collections, ix. 154; Contributions to the Ecclesiastical History of Connecticut, p. 512; Stiles, History of Ancient Wethersfield, i. 24. But see Records of the First Church of Dorchester, Massachusetts, 1636–1734, p. vii. The records of the Windsor Church, now

In Watertown the original church organization was continuously maintained by those who remained on the soil.[8]

A town organization was maintained in each of the three places, without a break, although Governor Winthrop speaks of "three towns" having gone to Connecticut.[9]

William Pyncheon, a man of means and ability, was the principal inhabitant of Roxbury. He led off a few families from that place to join those leaving the other towns; but the church and the main body of the people remained, and there was nothing that resembled a removal of Roxbury as an organized community. He took letters of dismission and recommendation to the church set up at Windsor, to serve till his company should form a new one, at the place of their settlement.[10]

The name Agawam had been originally given to what is now and was in 1636 called Ipswich.[11] It was adopted for the second time by Pyncheon and his followers for the place on the river situated above Enfield Falls, where they concluded to remain. In the old records and letters of that day it is variously spelled as Agawam, Agawom, Aggawam, Agaam, and Aguam.

Pyncheon's selection of this site for his new town was the far-sighted act of a sagacious trader. As the northernmost of the five river settlements it was in a position where there could be no competition in dealing with the Indians. For those ranging the wilderness then covering northern New England, it was the natural

extant, do not embrace anything pertaining to its life at Dorchester, Massachusetts.

[8] Colonial Records of Connecticut, i. 2.

[9] Journal, i. 203.

[10] New England Historical and Genealogical Register, xxxv. 21.

[11] Massachusetts Colony Records, i. 26, 103, 123.

market to which to bring their beaver skins; and it was in these that there was the greatest chance of immediate profit. Pyncheon in fact enjoyed for years a lucrative trade in them. He also had considerable commercial dealings with Hartford for some time. There he had a close business connection with one of the leading men, Jonathan Gilbert, through whom he sold goods shipped up the river and imported from England.[12]

For merely agricultural purposes, the land at Agawam was no better than that below the falls. An exploring party from Dorchester had been over the ground in 1635, with a view to the removal there of that town, but preferred the lower site subsequently selected at Windsor.[13] Its selection by Pyncheon as the place of his settlement was probably largely due to the fact that it was at the intersection of the great Indian trail, leading west from Massachusetts Bay, with the river which formed the natural channel of intercourse between the Northern wilderness and Long Island Sound.[14]

Pyncheon built a warehouse and landing-place at the head of navigation on the Connecticut River, near the foot of Enfield Falls. Its site soon became known as Warehouse Point and a village grew up around it which still exists under that name. From hence it was easy to ship the peltry collected at Agawam.[15]

The emigrants, as a whole, were a choice body of men, though perhaps overweighted by a superabundance of leaders. Cotton Mather speaks of these as "worthy, and learned, and genteel persons going to be buried alive on the banks of Connecticut, having been first slain by

[12] New England Historical and Genealogical Register, iv. 230.
[13] 4 Massachusetts Historical Collections, vi. 580.
[14] New England Historical and Genealogical Register, xlviii. 263.
[15] Stiles, History of Ancient Windsor, i. 429.

the ecclesiastical impositions and persecutions of Europe." [16]

Four separate settlements were made by those who thus left their homes in Massachusetts; at Agawam, under Pyncheon, at Hartford, at Windsor, and at Wethersfield.

The first of the general courts contemplated by the Commission was held at Newtown (later known as Hartford) on April 26, 1636. Agawam was not represented, and did not appear by her representatives at the united councils until the fifth court, on November 1, 1636, in which Mr. Pyncheon sat as one of the Commissioners.

In the following February the Massachusetts names of the three southern plantations were dropped, and by order of the court "Newtowne" became "Hartford Towne," "Watertowne" became "Wythersfield," and Dorchester became Windsor.[17]

In founding Agawam, the inhabitants signed a written compact of local government. This was dated May 14, 1636, and states that it was not contemplated or desired that more than forty or fifty families should settle there.[18] Mr. Pyncheon was probably apprehensive from the first that if there were a large population, his trading interests might be prejudiced by competition.

From the first the Connecticut emigrants were recognized as four distinct companies, though starting out on a common errand. Of the eight persons named on the commission from the General Court of Massachusetts Bay, each of these companies contributed two. William

[16] Magnalia, i. 74.
[17] Colonial Records of Connecticut, i. 7.
[18] Holland, History of Western Massachusetts, i. 24.

Pyncheon and Henry Smith, afterwards his step-son and son-in-law,[19] were those thus named to represent the Roxbury party.

This commission, the Connecticut authorities afterwards insisted, rested quite as much on the assumed assent of the grantees under the Warwick patent, represented on the spot by John Winthrop, Jr., as on any inherent authority of the Colony of Massachusetts Bay.

The real object of procuring such a paper from Massachusetts became a matter of dispute at a Congress of the United Colonies of New England held in 1648. The Massachusetts Commissioners who sat in it contended that—

> those whoe went from Watertoune and Camberidge and Roxebery and Dorchester, . . . tooke possession in our name and Right and had a Commission of Gouerment from vs, and some ordinance for theire defence, and in this State they remained a good Space.[20]

The Connecticut Commissioners replied to this that—

> the Masachusets by vertue of the Expressions in theire patent of goeing to the South Sea clayme an interest to Sprinkefiled (WarroNoco &c) after they were settled Under another Goverment, yet they claim not the licke at Forte Oraina that lyeth without any Controversy within their Limites upon that grounde; and wee further concaiue if the Massachusetts setle any plantacion upon Hudson Riuer by vertue of their graunte theire present plea for free egress and regress in and out of that Riuer would not bee founde of a prevaileing Power.[21]

[19] New England Historical and Genealogical Register, xxxv. 21. Dr. H. R. Stiles, in his History of Ancient Windsor, i. 54, and of Ancient Wethersfield, i. 39, seems to confuse him with the Rev. Henry Smith, who later came over from England and became the minister in Wethersfield. See his Ancient Wethersfield, i. 154.

[20] Hazard, Historical Collections, ii. 113.

[21] Hazard, Historical Collections, ii. 118.

They added that—

The Commission of Gouernment mentioned tacken from the Massachusets was taken Salva Jury of the enterest of the Gentlemen whoe had the Patent of Conecticut, that Comission takeinge rise from the desier of the People who removed, whoe judged it in Conveniencie[22] to goe away without any frame of Gouernment, not from any Claymes of the Masachusets Jurisdiction over them by vertew of Patent.[23]

That patent, it will be recollected, embraced "all that part of New England in America which lies and extends itself from a river there called Narragansett river, the space of forty leagues upon a straight line near the seashore towards the Southwest, West, and by South or West, as the coast lieth towards Virginia, . . . North and South in latitude and breadth and in length and longitude of and within all the breadth aforesaid, throughout the main lands there, from the Western ocean to the South sea." [24] This, if it refers to the head waters of the Narragansett, covers all that is now Connecticut and a strip of Massachusetts reaching as far north as Worcester.[25]

Lord Saye and Sele, the leading patentee, had given assurances of his friendly interest in the proposed emigration from Massachusetts to the great river,[26] but Winthrop, whom he and his associates had sent out as their Governor, probably went beyond his instructions in countenancing the issuance of the commission, for it was not long before we find him joining with Sir Harry Vane and Hugh Peters in a protest, in behalf of the War-

[22] Trumbull says that this reads "inconvenient" in the manuscript Journals of the Congress (Historical Notes on the Constitutions of Connecticut, p. 5).
[23] Hazard, Historical Collections, ii. 119.
[24] Trumbull, History of Connecticut, i. 525.
[25] Bowen, Boundary Disputes of Connecticut, 15.
[26] Trumbull, History of Connecticut, i. 544.

wick patentees against the setting up of claims to land-titles in the towns established under the new jurisdiction.[27]

Massachusetts, however, had, six months before, asserted her dominion over these settlements, which had been already then begun. On September 3, 1635, her General Court ordered that "every town upon Connecticut shall have liberty to chuse their owne constables, who shall be sworne by some magistrate of this Court." [28]

The earliest courts of Connecticut consisted of the magistrates from each town who were named in the original commission of March 3, 1636. That expired by its own limitation on March 3, 1637, and there must have been, though the Colonial Records do not explicitly state it, some kind of an election between the court of February 21, 1636–37, and the next, which was held on March 28, 1637.

This is indicated by three things.

1. "Mr. Welles," who was not named in the Massachusetts commission, sits at the latter court as one of the magistrates, and is named next after Mr. Ludlow. This was Thomas Welles of Hartford, who in 1639 became treasurer of the Colony and in 1655 its Governor. He must have owed his seat to the choice either of his town or of all the towns.[29] William Westwood of Hartford, one of the magistrates named in the Massachusetts commission, was apparently not elected at this time as a magistrate, and Mr. Welles was probably chosen instead by the inhabitants.

[27] Winthrop's Journal, i. 477.

[28] Massachusetts Colony Records, i. 160.

[29] Dr. Henry Bronson states, I think mistakenly, that Mr. Welles was for a short time a magistrate under the Massachusetts commission. New Haven Colony Historical Society Papers, iii. 296.

2. At the court next following, on May 1, 1637, in addition to the magistrates there are entered, as sitting, nine persons styled "Committees," three of whom come from each of the lower towns. These men are evidently legislative representatives sent by each of these three settlements,—prototypes of the deputies provided for in the Colonial Constitution of 1639.

3. At the last court held during this year—the first year after the expiration of the commission—on February 9, 1637–38, it was voted to dissolve, and ordered that the attendance of those at present "members" of the General Court was not thereafter "to be expected, except they be newly chosen in the next General Court." [30] The term "members" was here apparently used to signify both the magistrates and the members of the several town committees.

The next General Court opened on March 8, 1637–38, and was as previously ordered, a Court of Election. The plan pursued, it would seem, was to invest the committees from the several towns with the right by a general vote of choosing all the magistrates. No doubt each committee made its nominations for those from its own town. Referring to this occasion, the Rev. Thomas Hooker wrote, a few months later, in a letter which has been preserved, that—

> at the time of our election, the committees from the town of Agawam came in with other towns, and chose their magistrates, installed them into their government, took oath of them for the execution of justice according to God, and engaged themselves to submit to their government, and the execution of justice by their means and dispensed by the authority which they put upon them by choice.[31]

[30] Colonial Records of Connecticut, i. 12.
[31] Collections of the Connecticut Historical Society, i. 13.

At this court Mr. Pyncheon and Mr. Smith sat among the magistrates. The Colonial Records of Connecticut do not show that there had ever been a committee from Agawam in attendance at any previous General Court, nor at that. None apparently was elected by the inhabitants of that settlement until March 28, 1638. The town records of Agawam (now Springfield) make this entry concerning it in the minutes of a meeting on that date:

> There was a free choyce according to an order from Mr. Ludloe by the plantation of two Good men, Committys for the General Court to be at Hartford the 4th of April 1638. The partys chosen are Mr. George Moxom and Jehue Burr.[32]

Agawam had been settled on both sides of the river, but it still had only a handful of inhabitants.[33]

President Dwight of Yale College tells us that of the first planters one was a tailor and another a carpenter. The tailor bought from an Indian chief a tract three miles square in what afterwards became known as West Springfield. He was in need of a wheelbarrow, and the carpenter had made one. The tailor offered him either this land for it, or a suit of clothes, and he wisely chose the land.[34]

This carpenter, whose name tradition has not handed down, was, no doubt, the Jehu Burr chosen on the committee of representatives. His name is written in such a way in the ancient script of some of the public records that it is difficult to say whether the penman meant to write it as John or as Jehu.[35] Apparently he was an

[32] Burt, First Century of the History of Springfield, i. 152.
[33] As late as 1639 there were probably not over fifteen men there. Green, Springfield, 1636–1886, p. 45.
[34] Dwight's Travels in New-England and New-York, i. 319.
[35] New England Historical and Genealogical Register, v. 472.

illiterate man, for his signature affixed to an important document on record was made by a mark. He is described by Hubbard, under the name of John Burr, in his General History of New England, as following the trade mentioned and one of the principal men among the Roxbury company.[36]

At the April Court at Hartford (April 5, 1638), Mr. Pyncheon and Mr. Smith again sat as magistrates, and Mr. Moxom and Mr. Burr appear as the committee from Agawam. Probably the two magistrates had simply held over until this time, and were now elected on the nomination of the committee.

Mr. Moxom was the minister of Agawam, and a graduate of Cambridge University from Sydney College.[37] Burr, a year after Springfield had identified itself with Massachusetts, removed to Southern Connecticut and made that colony his future home.[38]

In 1637 the Pequot war had been fought, and a heavy expense incurred. Of this it was thought fair that Agawam should bear its share, and at a court held on February 9, 1637–38, a tax of £620 had been laid to defray the cost of it. Of this sum £86, 16 shillings was assessed upon Agawam, about a third of the sum levied on Hartford. Mr. Pyncheon's shallop had been used in the expedition,[39] but Agawam had sent no men. She had quite enough to do to defend herself, far removed as she was from her sister towns.

[36] 2 Massachusetts Historical Collections, vi. 308.

[37] Young's Chronicles of Massachusetts, ii. 283.

[38] Morris, Early History of Springfield, p. 11; Todd (The Burr Family) puts the date of his removal as 1644. He represented Fairfield in the Connecticut General Court in 1645, his name being enrolled as "Jehu Burre" (Colonial Records of Connecticut, i. 130).

[39] Colonial Records of Connecticut, i. 10, 13.

Roger Ludlow writes to Pyncheon under date of May 17, 1637:

> I have received your letter wherein you express that you are well fortified, but few hands. For my part, my spirit is ready to sink within me when, upon alarms which are daily, I think of your condition; that if the case be never so dangerous, we can neither help you, nor you us. . . . I can assure you it is our great grief we cannot, for our plantations are so gleaned by that small fleet we sent out that those that remain are not able to supply our watches, which are day and night, that our people are scarce able to stand upon their legs.[40]

Early in 1637 the General Court of Massachusetts Bay authorized the Council to treat with "o^{r} frends vpon Conectecot" in regard to matters of common defence against the Indians, and "to proceede wth them in the said treaty as occation shall require." [41] Correspondence resulted in which, as noted by Governor Winthrop in his Journal under date of April 1, 1636 (doubtless a mistake for 1637), the representatives of Connecticut stated "their unpreparedness to declare themselves in the matter of government, in regard of their engagement to attend the answer of the gentlemen of Saybrook about the same matter." [42] In May, 1637, John Haynes was in Saybrook on his way to his new home,[43] and doubtless talked this question over with the younger Winthrop.

Early in the following month (June 2, 1637) the General Court of Connecticut ordered that forty men should be despatched from Hartford, Windsor and Wethersfield "to set down in the Pequoitt Countrey & River in

[40] Letter quoted in Taylor, Roger Ludlow, p. 70.
[41] Massachusetts Colony Records, i. 192.
[42] Winthrop's Journal, i. 259.
[43] *Ibid.* i. 260.

place convenient to mayntaine o^{r} right y^{t} God by Conquest hath given to us," and this was followed upon June 26 by an order that—

> Mr. Haine and Mr. Ludlowe shall goe to the mouth of the River to treate and Conclude wth o^{r} frend^{es} of the Bay either to joine wth their forces in p^{r}secutinge o^{r} designe against o^{r} enemies or if they see cause by aduise to interprise any Accon accordinge to the force we haue. And to parle wth the baye aboute o^{r} settinge downe in the Pequoitt Countrey.[44]

It will be observed that this action strongly confirms the conclusion that after March 3, 1637, Connecticut, if it did not claim to be a self-governing body, at least no longer acknowledged any political dependence on Massachusetts.

The negotiations between the two Colonies thus commenced were followed up during the following year (1638), at Boston, on the invitation of Governor Winthrop.

At the General Court of Connecticut held February 9, 1637–38, John Burr was appointed collector for Agawam, and it was ordered that "noe man in this River nor Agawam shall goe vpp River amonge the Indians" to trade for corn until otherwise ordered.[45]

The object of this was to give a monopoly of this trade to Mr. Pyncheon; but for the benefit of the lower towns he was to sell five hundred bushels there, if he could get as much from the Indians, at five shillings a bushel, "if hee can save by that;" otherwise at five shillings, two pence, or more if need be. No Indian bringing

[44] Colonial Records of Connecticut, i. 10.
[45] Colonial Records of Connecticut, i. 11.

corn down the river was to be paid more than four shillings a bushel for it.[46]

Agawam was also required to provide and keep on hand, by way of military supplies, seven corselets, half a barrel of powder, and a hundred and fifty pounds of lead.

A bitter controversy arose as to the manner in which Mr. Pyncheon had fulfilled his undertaking as to supplying corn to the lower towns. He was charged with acting in bad faith. A trial followed in March at Hartford. He made a vigorous defence, Mr. Moxom appearing as his counsel. The magistrates asked the opinion of the two Hartford ministers as to whether the facts proved established the accusation, and they both (the Rev. Thomas Hooker and the Rev. Samuel Stone) said that it showed that Mr. Pyncheon had violated his oath as a magistrate.

The matter came up for final disposition before a court held at Hartford April 5, 1638, at which Mr. Pyncheon was present, as one of the magistrates, and it was there adjudged that he had not been "soe carefull to p^{r}mote the publique good in the trade of Co^{r}n as hee was bound to do." For this he was fined forty bushels of corn.[47] The General Court which convicted him offered at the same time an olive branch by granting him a monopoly of the beaver trade at Agawam.

This traffic with the Indians brought large returns, so long as it was under the exclusive control of one man. Subsequently, when thrown open to competition, the profits became so reduced that farming was found to pay better.[48] The vote of censure, however, stung Mr.

[46] *Ibid.* i. 13.
[47] *Ibid.* i. 19.
[48] Johnson, Wonder-working Providence, p. 199.

Pyncheon too deeply to let him hesitate as to sacrificing his grant of monopoly. It was certainly an impolitic act on the part of his associates to deal out such a sentence against the head and centre of the Agawam plantation, if they desired to retain it within their jurisdiction.

It is probable, however, that he had been sounded before this as to the scheme by this time under serious consideration, for setting up a new commonwealth upon the upper waters of the Connecticut, and had been found not in favor of it. The plan as finally developed was the work, we are told by one of our oldest authorities, of six or eight of the leading men of the three lower towns.[49] Among them, no doubt, were John Haynes, Thomas Hooker, Roger Ludlow, Thomas Welles, George Wyllys and Edward Hopkins. The formal draft of the "Fundamental Orders" was probably from the hand of Roger Ludlow.

In determining all the causes which led Agawam to draw off when this project was agitated, it will be necessary to review events of preceding years.

American geography at this period presented almost an unknown field. No map could be constructed in which patents did not overlap. As has been seen, the emigrants to the Connecticut River went out under a show of authority derived partly from the patent of the Massachusetts Bay Company and partly from that given by the Earl of Warwick. Governor Winthrop regarded it as doubtful whether the new Dorchester on the Connecticut (that is, Windsor) was not within the bounds of Massachusetts.[50]

[49] Roger Wolcott's Memoir, Collections of the Connecticut Historical Society, ii. 326.

[50] Journal, i. 216.

When John Winthrop, Jr., after the expiration of his term as Governor and his return from Saybrook to Boston, desired to acquire a title to Fisher's Island, he was not content until he had obtained a grant of it from Massachusetts.. The General Court, however, was careful to add to the conveyance, "so far as is o[r] power, reserving the right of Connecticut & Saybrooke." [51]

On August 30, 1637, an ecclesiastical synod was held at Newtown. It was attended by the teaching elders of all New England, and seats were provided for the magistrates. The Rev. Thomas Hooker of Hartford was one of the moderators. He had come on some weeks before with his colleague, Mr. Stone, and on August 5 was at Boston, where Roger Ludlow and William Pyncheon had also come from Connecticut, with a view of treating for a confederation between the two jurisdictions.[52] A day was set for a conference between them and representatives of Massachusetts, and Plymouth was also invited to join in it. The notice given to that Colony was, however, so short that it sent no delegates.[53]

The result was that some of the magistrates of Massachusetts prepared a draft of articles of confederation, which was discussed, and an agreement reached that it should be referred for ratification to the proper authorities in each colony, that is, to the General Court of Massachusetts and "the magistrates and people" in Connecticut.[54]

It would seem that Massachusetts at first regarded it

[51] This was on October 7, 1640 (Massachusetts Colony Records, i. 304). Connecticut assented in 1641 (Colonial Records of Connecticut, i. 64).

[52] Winthrop's Journal, i. 281.

[53] *Ibid.* i. 284.

[54] Letter of Thomas Hooker to Gov. Winthrop. Collections of the Connecticut Historical Society, i. 9; Winthrop's Journal, i. 237, 285, 286.

as provisionally in force, before final ratification; for on November 30, 1637, her General Court voted that inasmuch as the Pequots had been conquered, and their lands "are by iust title of conquest fallen to vs, & o^{r} freinds & associats vpon the ryver of Connecticut," and so peace secured to such as should settle "at Pecoit & Quinapiack & the parts beyond towards the Dutch, wee do hearby declare the iust right & title w^{ch} o^{r} selues & o^{r} said associats vpon Conecticut have to all the said lands & territories, & wth all it is o^{r} desire that o^{r} said associats (according to the articles of confederation agreed vpon between vs) wilbee pleased to appoint 2 com̃ittees sufficiently authorized, to give o^{r} com̃ittees a meeting at Newtoune so soone as the season of the yeare will p̱mit" to decide as to the disposition of the lands and as to a suitable portion of the expenses of the war to be paid by future settlers on them.[55] Later (in 1641), however, the General Court of Massachusetts referred to the articles on which the negotiations in August, 1637, were based as "articles claimed by Connecticut to have been p̱pounded to them by authority of this Court," but declared by way of "answer that they were p̱pounded & drawen out onely by some of the Ma^{trats} of each p̃ty, wth out any order or alowance of this Court." [56]

It is possible that the articles of confederation relied on in the vote of November 30, 1637, may have been some concluded with the commissioners sent by Connecticut to Saybrook on June 26 of that year, which have failed of record in either colony. We have surer ground on which to stand with regard to action taken in the direction of confederation in 1638. On May 29

[55] Massachusetts Colony Records, i. 216.
[56] Massachusetts Colony Records, i. 320, 321.

of that year, Roger Ludlow writes from Windsor to the "Governor and brethren of the Massachusetts Bay" a commission of authority to John Haynes, William Pyncheon and John Steele to treat with them on this subject. It opens with a reference to "There being of late a generall assembly of these plantac̃ons in this River, & falling into consideraco̅n of divers p̃ticulers that might or may concerne the generall good of these p̃ts," and states that this resulted in deputing the three persons named to confer with the Massachusetts authorities as to some "rules, articles & agreemts" for the purpose of combining and uniting the Connecticut plantations with Massachusetts Bay.

The signature to this missive was "R. Ludlowe in the name of the whole." [57] His name stood first in the original commission from the Bay Colony, of March 31, 1636. It was always put first, in the list of those holding the courts of Connecticut, in the records of that jurisdiction until and including that of the General Court of May 1, 1637. During that month John Haynes removed to the river colony, and as he so recently had been Governor of Massachusetts, and was a man of high social position, it seems probable that by vote of the next court he was elected a magistrate. Two General Courts were held in June, the record of which, contrary to the usual custom, contained no minute of the magistrates present. The next assembled November 14, 1637, and in the records of that, Mr. Haynes's name stands first, as it does in the records of all that follow, until the date of the adoption of the Eleven Fundamental Orders in 1639, under which he was elected the first Governor.

[57] Massachusetts Historical Collections, i. 260.

It is evident, therefore, that Roger Ludlow signed the commission of May 29, 1638, as the ranking magistrate, next after John Haynes, who could not well authenticate a commission to himself.

The Records of Massachusetts, under date of June 2, 1641, assert that at a General Court held at Cambridge in June, 1638, articles of agreement for that purpose were "agitated and brought to some issue," as the result of negotiations with commissioners from Connecticut who were there present; and that at this time—

> Springfeild, then called Agawam, was claymed by the Court (though by occasion of some private speach &c) to belong to us; & it was then agreed by the Court, & yeilded unto by their comissionrs, that so much of the ryver of Connecticut as should fall wth in the line of or patent should continue under or iurisdiction, (& it was then taken for granted that Springfeild would fall to us wth out question;) & those articles had then beene fully agreed on between the Cort & their comissionrs, had there not bene some question about their granting us free passage up the river, in regard of the lords interest, (as they alleadged).[58]

This reference to the Lords refers, of course, to Lord Saye and Sele, Lord Brooke, and the other owners of the Warwick patent.

The Massachusetts Records for 1638 show that a General Court held at Newtown May 2, 1638, was adjourned "to the 7th of the 4th mo, being the 5th day of the same week, in wch the Quarter Court is," and that an adjourned session was in fact held there on the eighth day of that month (June 8, 1638), at which it was voted that for the future the place of holding courts be transferred to Boston.[59] The record of this adjourned meeting does not state that any Connecticut matters were

[59] *Ibid.* i. 229, 230, 232.

taken up. Other sources of authority, however, make it reasonably certain that important negotiations were then had with commissioners sent from Connecticut for that purpose, and that Mr. Pyncheon was one of these.

At a meeting of the Congress of the United Colonies of New England held in New Haven on September 9, 1646, a question arose between Massachusetts and Connecticut as to which had jurisdiction over the plantation then recently made by John Winthrop, Jr., at "Pequot." Massachusetts claimed title by conquest; Connecticut by patent, purchase, and conquest. The record then proceeds thus:

> It was remembered that in a treaty betwixt them at Cambridg 1638, not perfected, a proposition was made that Pequot river in reference to the conquest should be the bounds betwixt them, but Mr. Fenwick was not then there to pleade the pattent, neither had Connecticute then any title to those lands by purchase or deed of gift from Vncus.[60]

The Connecticut Commissioners also claimed that the treaty for a confederation began in June, 1638.[61] Later a letter from Massachusetts signed by Governor Winthrop and other magistrates, was filed in reply. This seems not to have disputed that the date thus claimed by Connecticut was the true one, and refers to the meeting as held at Cambridge.[62]

Another and fuller description of the negotiations of 1637 and 1638 is given in the Records of the Congress of the United Colonies, held at Boston, July 23, 1649. The Massachusetts commissioners there stated that—

[60] Hazard, Historical Collections, ii. 72.
[61] *Ibid.* ii. 111.
[62] *Ibid.* ii. 112.

at the meeting at Cambridg about ten or twelve years sence Mr. Pynchon in the behalfe of Sprinkfield declared his desire to bee and remayne vnder our Goverment and so haue continewed ever sence without question or word speaking against it that wee remember, till something was moved to that purpose the last yeare at Plimouth.[63]

The Connecticut Commissioners thereupon rejoined—

that Springfield was in Combination with Conectacutt and so owned by the Goernment of the Massachusets is more cleare than to bee left vnder any doubt; propositions being sent in Anno 1637 by the honered Gouernor lately desseased[64] to all the plantations vppon that River concerning a Combination with the Massachusets, and Mr. Pinchon in prosecution thereof chosen and sent as Comissioner from that Colonie to acte in the treaty for them in Anno 1638, at which time and not before hee declared his apprehensione that Sprinkfield would fall within the Massachusetts line; and was so accepted, without any proufe of what was alledged; and that motion by Mr. Pincheon arose (as is verily conceived) from a present pange of discontent vpon a sensure hee then lay vnder by the Gouernment of Conectacutt.[65]

This last allusion, unquestionably, is to the vote of the General Court of Connecticut passed April 5, 1638, which has been previously mentioned. Governor Winthrop, under date of June 5, 1638, notes in his Journal,[66] the arrival of Governor Haynes in Massachusetts. That he sent back by him to Connecticut some formal reply to the communication from Ludlow and that in this the question of jurisdiction over Agawam was raised appears from several letters found among the Winthrop Papers. In one of these sent to him by Ludlow, under date of July 3, 1638, the hope is expressed that he will not "take it amisse wee have written backe

[63] *Ibid.* ii. 137.
[64] John Winthrop, Senior.
[65] Hazard, Historical Collections, ii. 139.
[66] Journal, i. 319. Cf. i. 335.

no thinge aboute yo^{r} Ppositions sent by Mr. Haines. O^{r} imploym^{ts} ars soe many att this tyme wee cannot drawe our people togeather, but as soone as conveniently wee cann, wee intend to consider of it." [67]

On November 29, 1638, William Spencer of Hartford writes at length[68] to Winthrop in regard to the negotiations at Cambridge. The Connecticut Commissioners had reported, to quote his words, that—

when it came vnto the isue, you would have Aggawame joyned vnto you, or else you would not conclud of the Vnion; and to that purpose, they say, you have written to dismiss the same from them; this wth some other, wch I forbeare to name vntill I speake wth you, because I presume they are but reports, and soe may be false; but heering the other, I could not tell what to say; only I their left it, and spake no moore aboute it. Now the truth is, S^{r}., although, for my owne part I do earnestly desier what euer may promote your good, and soe I hope shall doe, yet I must confes I doe not yet see what benifit it canbee vnto you to haue a plantac̃on soe far remote dependent upon y^{u}, w^{ch} cann in noe kinds be seruiceable and in the mean tyme may bee very preiedusall vnto the plantac̃o heer, for they cannot posible bringe aboute some of ther ocations, as it war meet they should, if they bee severd from them. Nay, further, I doe conceaue it may bee an ocation of some differce betwixt you and them.

Neither the Records of Massachusetts nor of Connecticut were kept at this period with perfect accuracy or completeness, but it is made reasonably certain by the documents which have been cited that early in June, 1638,[69] John Haynes, William Pyncheon and John Steele

[67] 5 Massachusetts Historical Collections, i. 264.

[68] *Ibid.* "You" in this letter evidently refers generally to those who represented Massachusetts at the conference.

[69] Winthrop's Journal indicates that this conference occurred not in June but July, 1638. He speaks, under date of December 13, 1638, of these three men as having brought their Connecticut amendments to the attention of the General Court at Newtown (i.e. Cambridge) on "the day of the 5th" (Journal, i. 342). This probably indicates simply a lapse of memory.

were in Massachusetts as envoys from Connecticut to confer with the General Court as to articles of confederation between the Colonies, and to urge certain amendments to those framed in 1637. Connecticut objected to these, for one reason, because they put too much power in the hands of the commissioners, preferring to leave a right of veto to each party of the combination.

The propositions of Massachusetts brought back to Governor Haynes, in June, 1638, no doubt suggested as one of the matters to be agreed on, that Agawam should be treated as belonging to Massachusetts.

Between June and December, 1638, there was a correspondence between Governor Winthrop and the Rev. Mr. Hooker of Hartford, which throws a strong light upon this question. It is of the greater value to the historical student, because the Colonial Records of Connecticut were not written up between the Court of April 5, 1638, and that of January 14, 1638–39. In the Colonial record book, ten pages were left for this purpose, but the gap was never filled. A partial explanation is to be found in the fact that John Steele, who had acted as Secretary of the Colony from its first beginnings, was replaced in April, 1639, by the election of Edward Hopkins.

It is hardly possible that so long a period as nine months elapsed without several meetings of the courts, and in the letter mentioned from Mr. Hooker, as will be seen from quotations now to be made, it is explicitly stated that in the fall of 1638 there was a court at which an Agawam culprit was punished for a misdemeanor, on complaint of those representing that settlement.

The Governor in his letter to him had said that the objections of Connecticut to the plan of union seemed

ill taken, and complained that Connecticut still exercised jurisdiction at Agawam, saying that "Mr. Pincheon had small encouragement to be under them." [70] Hooker's answer, written in the fall of 1638, "touching the business of Agaam," says that the sum of the matter lies "partly in the jurisdiction we have exercised, partly in the jurisdiction which, at this time, you so suddenly, so unexpectedly take to yourselves."

As to the former, he says that the jurisdiction of Connecticut (i. e. the organization into a collective body in the nature of a colony) was established by commissioners from four towns, including one from "Agaam." Since Governor Winthrop's letter they had exercised an act of jurisdiction over Agaam. That town had sent one of its inhabitants apprehended in some misdemeanor to the Court of Connecticut, to desire justice, "which they answerably did." Nor, Mr. Hooker continued, could they have done otherwise. The magistrates of Connecticut had been elected by the committees of all the four towns. When the men of Agaam demanded justice from magistrates so chosen, how could it be denied? He went on thus:

> Yea, taking it for granted that it is in each inhabitant's liberty in Agaam to choose his jurisdiction (which is to me beyond question) if I was there an inhabitant, I should judge myself bound in conscience to submit to the jurisdiction of the river, and do believe I should make a breach upon the eighth commandment, if I should do otherwise, because in so doing I should steal from mine estate, in that I should rush myself into needless and endless inconveniences: namely to cast myself into that condition that for a matter of five shillings (as the case may fall out) I should put myself to unreasonable charges and trouble to seek for jurisdiction hundred miles off in the wilderness. If Mr. Pyncheon

[70] Winthrop's Journal, ii. 428; Collections of the Connecticut Historical Society, i. 2.

can devise ways to make his oath bind him when he will and loosen him when he list: if he can tell how, in faithfulness to engage himself in a civil covenant and combination (for that he did, by his committees, in their act), and yet can cast it away at his pleasure before he give in sufficient warrant, more than his own word and will, he must find a law in Agaam for it; for it is written in no law nor gospel that ever I read. The want of his help troubles not me, nor any man else I can hear of. I do assure you we know him from the bottom to the brim and follow him in all his proceedings, and trace him in his privy footsteps; only we would have him and all the world to understand, he doth not walk in the dark to us.[71]

Hooker evidently writes under the strain of strong feeling. Pyncheon had been one of the leaders of the Connecticut expedition. He had been prospered in his undertakings. He had been honored with all that Connecticut had to give in the way of official distinction. He had sat year after year as a magistrate, and now, that they were planning to set up a permanent scheme of government suitable for a separate colony, he held off, and was evidently preparing to carry Agawam over to Massachusetts. Hooker viewed him as a kind of traitor. Possibly he had some knowledge also of Pyncheon's attitude towards Calvinism, which a dozen years later brought him under the censure of the orthodox both in Massachusetts and Connecticut. The breach between them was evidently irreconcilable.

Winthrop replied to Hooker in an amicable spirit. There is, he says, a gospel rule to "let the Cloke goe after the Coat; but (I suggest) you will not tye us to that; neither will we require it of you." In lieu of this he proposes "that you should yield in some thinges & we in the rest." He prefers not to go into particulars as to a compromise, adding "but if matters must come

[71] Collections of the Connecticut Historical Society, i. 14.

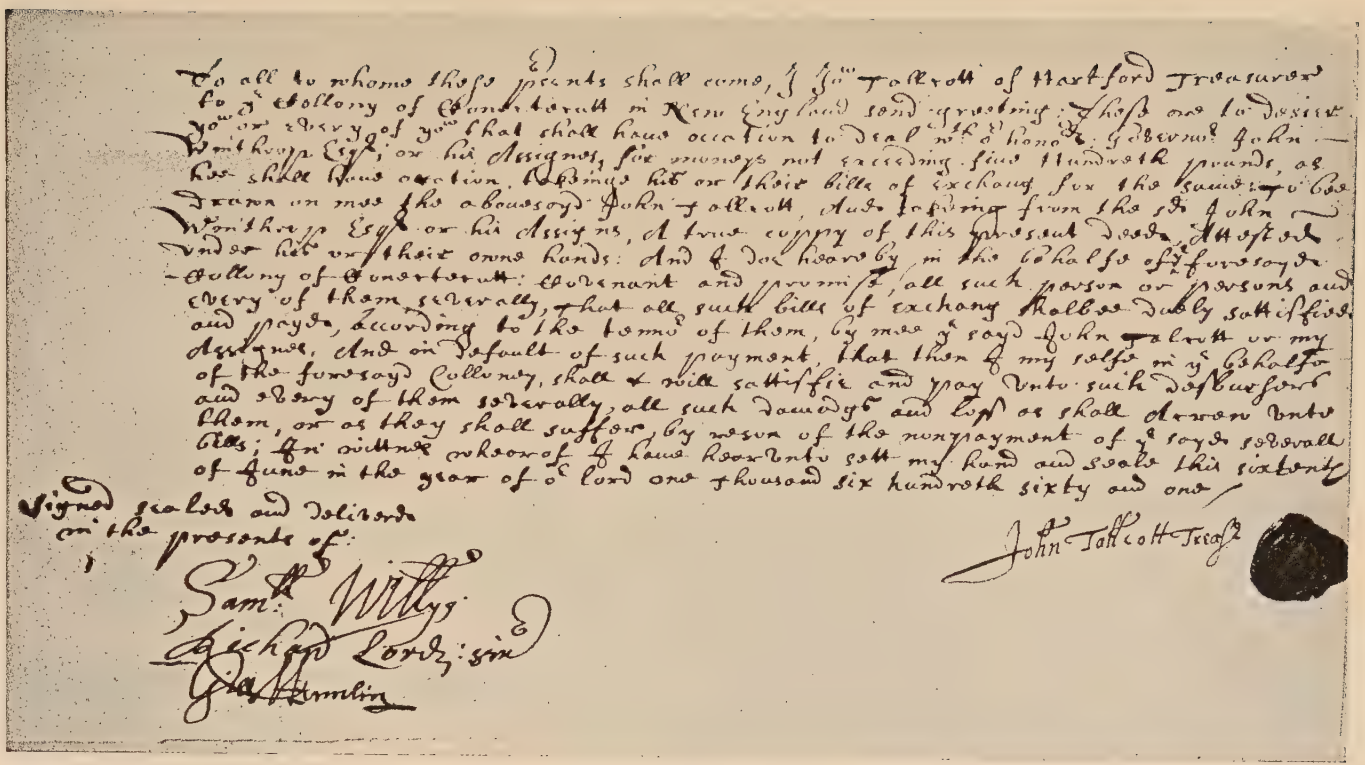
to be scanned, I doubt not there will appear some reason on o^{r} part & that the occasions of yo^{r} greatest grief arise wholly from your owne Comission wthout any thought of o^{rs} touchinge that course." [72]

While Winthrop must have respected Hooker's ability as a preacher, it may be doubted if he regarded him as well fitted to engage in statecraft. The great source of the disagreements between Massachusetts and Connecticut, he wrote at about this time (December, 1638) in his Journal, was that in Connecticut, for want of civil officers of sufficient training and parts, "the main burden for managing of state business fell upon some one or other of their ministers, (as the phrase and style of their letters will clearly discover)." [73]

On January 14, 1638–39, there was a General Court of Connecticut, at which it would seem that the plan of government which Hooker, Ludlow, and others had long been preparing was formally adopted in the name of "the Inhabitants and Residents of Windsor, Harteford and Wethersfield," those of Agawam not participating.[74] No reference to Agawam was made in any part of the instrument, unless it can be implied in the provision that each town should send four deputies to the General Court "and whatsoeuer other Townes shall be hereafter added to this Jurisdiction, they shall send so many deputyes as the Courte shall judge meete, a reasonable p^{r}portion to the nũber of Freemen that are in the said Townes being to be attended therein." [75]

Two days later (January 26, 1638–39), Edward Hop-

[72] Life and Letters of John Winthrop, ii. 422.
[73] Journal, i. 344.
[74] Colonial Records of Connecticut, i. 25, 26.
[75] Colonial Records of Connecticut, i. 20, 24.



To all to whome these presents shall come, I Jno Talcott of Hartford Treasurer for ye Collony of Connecticott in New England send greeting: These are to desire yo^u or every of yo^u that shall have occation to deal w^th ye hono^d Gouernor John Winthrop Esq^r or his Assignes, for moneys not exceeding five Hundreth pounds, as he shall have occation, drawing his or their bills of exchang for the same to be drawn on mee the aboues^d John Talcott, and taking from the s^d John Winthrop Esq^r or his Assignes, A true copyy of this p^rsent deed, Attested vnder his or their owne hands: And I do heerby in the behalfe of ye foresayd Collony of Connecticott: Covenant and p^romise, all such p^rson or p^rsons and every of them seuerally, That all such bills of exchang shalbee duely satisfied and payd, according to the tenno^r of them, by mee ye sayd John Talcott or my Assignes, And on default of such p^rayment, that then I my selfe in y^e behalfe of the foresayd Collony, shall & will satisfie and pay vnto such p^rson or p^rsons and every of them seuerally, all such damadge and loss as shall accrew vnto them, or as they shall suffer, by reson of the nonpayment of ye sayd seuerall bills; In wittnes wherof I have heervnto sett my hand and seale this sixteenth of June in the yeare of o^r lord one thousand six hundreth sixty and one

Signed sealed and delivered
in the p^rsence of:

Sam^ll Willys
Richard Lord, sen^r
Gil: Hamlin

John Talcott Treas^r

LETTER OF CREDIT given by the Colony of Connecticut to Governor John Winthrop, as Agent of the Colony, to secure the Charter from King Charles II.

kins of Hartford encloses in a letter to Pyncheon a copy of a vote passed, with the latter's consent,[76] at the General Court of April 5, 1638, at which he was present as a magistrate, requiring him to pay William Whiting forty pounds in corn or merchantable beaver. The benefit of this contract had been assigned by Whiting to Hopkins, who writes to acknowledge the receipt of a partial payment upon it. He adds that he has been ordered by the Court to write to him (Pyncheon) about the fine that is due from him, and for such moneys as are coming to the country for such beaver as he had traded for, and requests him by the next opportunity to give him an answer, for it will be expected of him (Hopkins). This order is not to be found in the Colonial Records of Connecticut, but was probably passed at the General Court of January 14, 1638–39, at which the new frame of civil government was adopted. That step was no doubt felt by the three lower river towns to put them in such new relations to Agawam as to make it desirable to come to an early settlement with Pyncheon of all matters pending undetermined.

He was prompt to sever the last thread of political connection, and in the following month declared his attitude, in terms which were unmistakable.

An agreement, under date of February 14, 1638–39, was drawn up, executed and recorded by him in the "Pyncheon" or town records of Agawam, commencing thus:

> February 14, 1638. Wee, the inhabitants of Aguam uppon the Quinecticut, taking into consideration the want of some fit magistracy among us, Beinge now by God's providence fallen into the line of the Massachusetts jurisdiction, and it beinge far off

[76] *Ibid.* i. 18.

to repair thither in such cases of justice as may often fall out among us, doe therefore think it meett by a general consent and vote to ordaine (till we receive further directions from the General Court in the Massachusetts Bay) Mr. William Pyncheon to execute the office of a magistrate in this our plantation of Agawam, etc., etc.[77]

The dispensation of Providence, on which this vote relies for its justification, can hardly be the discovery of any new light as to the southern bounds of the Massachusetts patent in that quarter, for no survey to determine it had yet been made. It was no doubt the reorganization of the jurisdiction of Connecticut, in a way which left Agawam out, and—to go one step farther back—the conclusion of Pyncheon to have it left out, and to cast in his lot with the older colony.

Mr. Pyncheon now proceeded to prepare a vindication of his conduct in respect to his contract relations to Connecticut, which was circulated in manuscript throughout the river towns. The General Court of Connecticut appointed John Haynes and Thomas Welles a committee to compose an answer. A letter of this nature, signed by them, "by apointement of the Court" and addressed to "Mr. Pinchon," was sent to him under date of April 18, 1639. "Your 'Apology,'" they say, "is an attempt to vindicate your owne credit to the dishonor and wronginge the Court, a course very offensive and far unbeseeminge on of your quality." [78]

The Windsor church, which he had joined by letter,

[77] New England Historical and Genealogical Register, xiii. 291; Holland, History of Western Massachusetts, i. 33; 5 Massachusetts Historical Collections, i. 487.

[78] Green, Springfield, 1636–1886, pp. 29–36; quoted from the original manuscript now owned by Charles E. Oliver of Boston. The only date of the letter is the 18th day of the second month, but it was addressed on the back "To his lov. friend, M[r] Pinchon, at his house in Aguam, lett these bee del[d]," and on the first page is a marginal note, apparently in his handwriting, of its receipt on "the 20 April, 1639."

made Mr. Pyncheon's action the subject of disciplinary proceedings, and (September 5, 1640) came to the conclusion that he had not made good his defence to the charges against him. He undertook to bring this finding under review by the Roxbury church, and there obtained a favorable report.[79]

It was evidently not without some hesitation that Massachusetts concluded to treat Agawam as within her jurisdiction. It was a petty settlement, separated from the Bay towns by a long stretch of wilderness. Access to it by water could be had only by leave of the river towns, or by resort to measures of force or reprisal. Agawam stood, in 1639, to Massachusetts, much as the early settlements at Wyoming stood to Connecticut, or, let us say, as the Philippines now stand to the United States.

In a letter of September 6, 1639, from John Harrison to Governor Winthrop, he addresses it "To the honoorable my truely noble freind, John Winthrop Esq^r^ Govornour of Masecusets bay and Agawom." [80]

Ten years were yet to pass before Massachusetts was found ready to admit to her General Court representatives from this distant possession.

In May, 1639, the newly elected Governor of Connecticut, John Haynes, and Mr. Hooker went on to Boston to propose a renewal of the treaty for a combination between the two colonies, and their overtures were favorably received by the General Court.[81] In the following August, Governor Haynes, Deputy-Governor Ludlow and Thomas Welles, or any two of them, were

[79] Green, Springfield, 1636–1886, pp. 55, 60.
[80] 5 Massachusetts Historical Collections, i. 119.
[81] Winthrop's Journal, i. 360.

appointed by the General Court of Connecticut "to goe to the Rivers mouth to consult with Mr. Fenwicke about a treaty of combinacõn w^{ch} is desi againe to be on foott with the Bay." Fenwick was now Governor of the Saybrook settlement, and Ludlow and Welles went there, taking Mr. Hooker with them, and reported to the next Court that Governor Fenwick had no objections to the proposed combination, provided any settlement of "matters of Bounds" were postponed until he heard further from the Warwick patentees.[82]

Early in the next year, on April 16, 1640, the inhabitants of Agawam wiped out their Connecticut name by the following vote: "It is ordered that the Plantation be called Springfield." [83]

That there was any moral justification for their course of action was denied by the lower river towns. Thomas Hooker's letter of 1638, already quoted, shows how deep this feeling then was. That it had not abated in 1640, and that some at Agawam were rendered uneasy by it appears from a letter dated in July of that year from the Rev. George Moxom to Governor Winthrop. It was written to ask if there was any order of the Massachusetts General Court showing that the settlers of Agawam "were dismissed out of the Bay with this ꝑviso, to continue of the Bayes iurisdictiõ." He gives as his reason for the inquiry that he hears—

some of o^{r} neighboo^{r}s in the River are doubtful whether we lye not in sin (not in fallinge from theyre governm̃et but) in fallinge disorderly from them without first orderly debaytinge y^{e} matter & o^{r} greiuances, if we had any. . . . I conceiue some ob-

[82] Colonial Records of Connecticut, i. 30, 31.
[83] Burt, First Century of the History of Springfield, i. 144.

jectiõ may be grounded on this, that they were possest of vs at that tyme.[84]

A few months later, a petition to the General Court of Massachusetts were prepared, which was formally presented to that body in June, 1641, signed by William Pyncheon and others, describing themselves as inhabitants of Springfield, in reference to their separation from Connecticut. It reads as follows:—

The Answer to the Petition of Mr. Pinchon and others of Springfield upon Connecticot exhibited to the General Court holden at Boston the 2d of the 4th Month.

Whereas the said Petitioners do certify us that some of their Neighbours and Friends upon Connecticott have taken Offence at them for adhering to our Government, and withdrawing from that upon the River, supposing that they had formerly been dismissed from this Jurisdiction, And that we had bound ourselves (by our own Act) from claiming any Jurisdiction or Interest in Agawam now Springfield, and for Proof hereof they alledge some Passages in a Commission graunted by this Court in the first Month 1635 to the said Mr. Pinchon and others for the Government of the Inhabitants upon the said River and some Passages also in certain Articles supposed to have been propounded to them by authority of this Court: It is hereby declared,

I. That the said Passages in the said Commission (as they are expressed in the Petition) are misrecited; so as the true scope, and Intention is thereby altered; as 1st. Whereas the Words in the Comission are, they are resolved to transplant themselves, in the Recitall it is, to plant themselves. 2dly, In the Commission it is said that those Noble Personages have Interest in the River, And by Vertue of their Patent do require Jurisdiction there: In the Recitall it is, that we confess it belongeth to their Jurisdiction: 3dly, In the Commission it is provided this may not be any prejudice to the Interest of those noble, &c. In the Recitall it is that nothing should be done or intended to the Prejudice of the Lords or their Intendments.

II. That the said Commission was not granted upon any Intent either to dismiss the Persons from us, or to determine any thing

[84] 5 Massachusetts Historical Collections, i. 296.

about the Limits of Jurisdictions, the Interest of the Lands, and our own Limits being as then unknown, therefore it was granted for only one year, and it may rather appear by our granting such a Commission, and their accepting of it; as also by that Clause, viz: till some other Course were taken by mutual Consent, &c. that we intended to reserve an Interest there upon the River, and that themselves also intended to stand to the Condition of the first Licence of Departure given to the most of them which was, that they should still remain our Body.

III. For those Arguments which they draw from those Articles certified in the Petition; We answer, that they were propounded and drawn out only by some of the Magistrates of each Party without any Order or Allowance of this Court, and therefore whatsoever those Magistrates might intend thereby, the Intent of the Court cannot be gathered from any thing therein, but in those Articles which were agitated, and brought to some Issue in our Generall Court at Cambridge in the 4th month 1638 where their Commissioners were present, Springfield then called Agawam was claimed by the Court (though by occasion of some private Speech &c.) to belong to us. And it was then agreed by the Court, and yeilded unto by their Commissioners that so much of the River of Connecticott as should fall within the Line of our Patent should continue under our Jurisdiction (and it was then taken for granted that Springfield would fall to us without Question). And those Articles had then been fully agreed on between the Court and their Commissioners, had there not been some Question about their granting us free Passage up the River, in Regard of the Lord's Interest as they alledged.

The conclusion of the Court was to put the inhabitants at Springfield under the government of "Willi Pinchen, gent" for the current year, according to the laws of Massachusetts, and with an appeal from his doings in weighty matters to the Court of Assistants at Boston.[85]

A letter was also agreed on at this Court to the Connecticut authorities, complaining that they had assumed to make grants of lands as far north as Springfield, and stating that "wee intend (by God's help) to know the

[85] Massachusetts Colony Records, i. 320–322.

certainty of o^r^ limitts." A grant of the kind named had, indeed, been made on September 10, 1640. The General Court of Connecticut then invested Edward Hopkins, the Governor of the Colony, with "the benefitte and liberty of free trade at Waranocoe & att any place thereabout, vppe the Riuer, and all other to be restrayned for the terms of seauen yeres, and the land to be purchased for the coñonwealth." [86] Waranocoe, otherwise written Waranoco or Waranoke, was the Indian name for what is now Westfield, some twelve miles west of Springfield. Under this grant Governor Hopkins, shortly afterwards, purchased the Indian title and built a trading house there.[87]

The misunderstandings between Massachusetts and Connecticut did not prevent the continuation of negotiations for a combination of the colonies in 1642, nor their favorable conclusion in 1643, when articles of confederation between the United Colonies of New England were finally ratified by all the parties to them.[88] Fenwick had personally participated in the final proceedings, and was made in July, 1643, one of the two Connecticut Commissioners to sit in the Congress of the Confederacy.[89] Not long afterwards Connecticut bought through him the Warwick title. This gave new strength to her claim to Agawam and Waranoco, since Governor Fenwick had always claimed, not without at least strong color of right, that they fell within the bounds of his jurisdiction.

Part of the consideration of the purchase was a grant to Fenwick for ten years of a duty on exports of certain

[86] Colonial Records of Connecticut, i. 57.
[87] Trumbull, History of Connecticut, i. 115.
[88] Massachusetts Colony Records, ii. 31, 35, 36; Colonial Records of Connecticut, i. 82.
[89] Colonial Records of Connecticut, i. 90 note.

kinds of goods from the mouth of the river. Mr. Pyncheon and the people of Springfield generally refused to pay it, on the ground that Connecticut had no jurisdiction over them.

These differences between Massachusetts and Connecticut were soon carried before the Congress of the United Colonies. That as to Waranoco came up first, and in 1644 (shortly before Fenwick's sale to Connecticut) at the annual Congress held in Hartford, it was adjudged that the settlement there should be under the jurisdiction of Massachusetts until or unless it should become evident from further proof that it did not belong there.

In the Congress of the following year, before which the Warwick title had passed to Connecticut and that colony had passed a statute laying the tolls on exports which the bargain of sale called for,[90] her right to make such an imposition was challenged by Massachusetts. The decision of the Congress was again of the procrastinating and *in statu quo* order,—namely, that the duties set must be paid, until at some future time the question could be thoroughly examined and finally decided.

At the Congresses of 1646, 1647, and 1648, it was again debated at length before the Commissioners from Plymouth and New Haven, sitting alone (those two colonies being the only ones not interested in the dispute). The original Warwick patent was called for by Massachusetts, and Connecticut could only produce a copy, though offering to authenticate it by the oath of Governor Hopkins. The Commissioners at last, "further considering that the Commissioners from Conectacut have formerly and doe still lay Clayme to Sprinkefield,

[90] Colonial Records of Connecticut, i. 119, 185.

as falling within their patent and not within the Limits of the Massachusetts," ordered a copy of this patent to be laid in at the Congress of the following year,—

and that in the meane time the two Colonys of the Masachusets and Conectacut would agree vpon som equall and satisfying way of rooneing the Masachusets line that it may without further dispute apeare into which of the Jurisdictions Sprinkefield falls, which being don, the supose that either the question betwixt the twoe Colonyes will cease or there may be a dew consideration of what shall further bee tendered from the order of Conectacut, and in the meantime what was done the last yeare to stand as then concluded.[91]

Connecticut was apparently not disinclined to this proposal that the south bounds of Massachusetts should be settled by a definite survey to which both governments should be parties, for at her General Court on June 6, 1649, over which Haynes presided as Governor, it was declared that, while as early as 1645 it had treated that place as under the Massachusetts government, "they are yet altogether vnsatisfied that Springfield doth properly fall in within the true limmitts of the Massachusetts Patent w^{ch} they much desire may with all convenient speed bee clearly issued in a way of love and peace and according to truth." [92]

A few weeks later, at the Boston Congress of July 23, 1649, of which Governor Hopkins was a member, Massachusetts made reply to the counsel that a boundary line should be run in a proper way, by observing that she had run such a line, long before, on an understanding with Governor Fenwick, prior to the acquisition by Connecticut of the Warwick title, and had found Waranoco

[91] Hazard, Historical Collections, ii. 123.
[92] Colonial Records of Connecticut, i. 139.

to be within the lines of their patent, but would consent to have it run again, in connection with Connecticut, provided that colony would pay the whole bill for the re-survey. This Connecticut declined, but offered to pay half the cost of such a survey,[93] and so the matter dragged along on its way into another century.

In fact, Massachusetts had, as early as 1642, employed two surveyors, who unfortunately were of quite questionable ability, to run the southern boundary of her patent. This required the ascertainment of "the South part of the Charles River, or of any or every part thereof." Three miles south of that began the line that ran west to the South Sea.

It is now conceded that the survey put it eight miles further south. This gave Springfield to Massachusetts and gave her also a long strip of territory embracing a large part of what now forms thirteen Connecticut towns.[94]

Connecticut followed with surveys of her own. Appeals to the King in Council were threatened by each colony, and negotiations ensued that were protracted for nearly three quarters of a century. At last a compromise line was settled by an agreement ratified by Connecticut in 1713.[95] It was afterwards found that Connecticut had yielded too much. The towns of Enfield, Suffield, and Woodstock were above the south line of Massachusetts as thus established. Each colony claimed them. In 1749 the General Court of Connecticut formerly as-

[93] Hazard, Historical Collections, ii. 136.

[94] A copy of this survey is given in Bowen's Boundary Disputes of Connecticut, opposite p. 19. It runs the line below Enfield Falls. See further Bowen's description of the territory included, in chapters iii and iv of his work.

[95] Colonial Records of Connecticut, v. 390–399.

serted her jurisdiction,[96] but it was not until 1804 that Massachusetts finally abandoned her claim.[97]

In apparent anticipation of the decision of the Commissioners at the Congress of 1649, the General Court of Massachusetts (on May 3, 1649) had adopted retaliatory legislation, laying a tax on all exports from the Bay or imports into Boston harbor of goods owned by citizens of the other New England Colonies. The Commissioners of the three other colonies in the Congress remonstrated against this policy, in a letter addressed to the General Court, suggesting the propriety of its reconsideration on the ground that such action was inconsistent with the tenor and import of the Articles of Confederation. "And in the mean time," they added, "desire to bee spared in all further agitations concerning Sprinkfield."[98] This appeal was not without its effect, for on May 23, 1650, the Court, reciting that it is informed that Connecticut intends to repeal her order taxing exports from the river, and meanwhile to suspend its execution, suspended the enforcement of its retaliatory measures until it could be certainly known what the course of the other colony would be.

In 1643, William Pyncheon had again been elected an Assistant in Massachusetts, and on May 14, 1645, the General Court ordered that the Commissioners of the Confederation for the year should form with Mr. Pyncheon a court of justice at Springfield.[99] Two years later (in October, 1647) he was authorized by the General Court to make freemen in the town of Springfield "of those that are in covenant and live according to their

[96] Colonial Records of Connecticut, ix. 431.
[97] Johnston, History of Connecticut, p. 209.
[98] Hazard, Historical Collections, ii. 142.
[99] Massachusetts Colony Records, ii. 109.

profession." [100] Up to this time the inhabitants had possessed no electoral or political power, since they had broken off their connection with Connecticut; and it was not till May, 1649, that the first deputy from Springfield appeared to take his seat in the General Court. Until 1647 it was never included in any official list of Massachusetts towns. [101]

* * * * *

The boundaries of the Colony of Connecticut were of a kind to invite litigation. They purported to cut out for her a swath across the continent, to the Pacific, of 3000 miles in length and but a few degrees broad. On the East lay the "Narraganset country," the title to which was questioned by the Colony of Rhode Island, and also claimed by the Duke of Hamilton. The Southerly boundary was a line of islands, claimed by the Duke of York, and that on the North was in dispute with Massachusetts.

Before founding any new colony those embarking in the enterprise must know something of the territory which is to be its seat. If this territory is inhabited, some arrangements must be made with the inhabitants or some authority in their behalf. If uninhabited, the new comers must naturally show some basis for a claim to possession. The first discoverer of the land, or his sovereign ruler is entitled to the benefit of the discovery, if he follows it up by occupation, and occupation may thus ripen into title.

When Cabot, in the fifteenth century, landed on the Atlantic coast, he laid the foundation of an English title. While the land was, in a sense, inhabited by the Indians,

[100] Winthrop's Journal, ii. 457.
[101] Green, Springfield, 1636–1886, p. 63.

the law of England was said to recognize no rights in them which white men were bound to respect. Queen Elizabeth, when she came to the throne, claimed the right under Cabot's discovery to colonize along the shores of the Atlantic. Holland set up a similar title to occupancy.

The term "colony" has been defined by high authority as properly denoting

> a body of persons belonging to one country and political community, who, having abandoned that country and community, form a new and separate society, independent or dependent, in some district which is wholly or nearly uninhabited or from which they expel the ancient inhabitants.[102]

Under this definition it is not the supreme test of the lawful existence of a colony that it should be a corporation, whether *de jure* or *de facto*. If it be one it has, however, a better prospect of continued life, and of ripening into a sovereign State.

The Romans defined a colony as a body of citizens sent out to found a commonwealth with the approbation of their own State or by a public act of that people to whom they belonged. The public law of England in the seventeenth century upon these points was substantially the same.

Everybody is presumed to know the law. There were good lawyers in the New England colonies. Roger Ludlow and Edward Winslow were among them. Winslow owned an autographed copy of the earliest English law dictionary, published in 1637.

The colonists of New England made much of their original discovery of the particular land which they occupied. Ultimately this got its importance from the

[102] Cyclopedia of American Government, I, 324.

acceptance by the civilized world of that day of the principle that land held by the uncivilized world of that day was a proper subject of seizure by anyone having a right derived from his sovereign.

President Woolsey states the matter thus:

> The claim on the ground of discovery was both exceedingly vague,—for how much extent of coast or breadth of interior went with the discovery?—and was good only against those who acknowledged such right of discovery, but not against the natives. Of the natives, however, very little account was made. Being heathen, they were not, in the age succeeding the discovery of America, regarded as having rights, but might be subdued and stript of sovereignty over their country without compunction. And yet when the right to territory in the new world was in dispute, a title derived from them, it might be, to soil far beyond their haunts, would perhaps be pleaded against prior occupation. The English colonies, however, which settled in this country, took, to a considerable extent, the more just course of paying for the soil on which they established themselves, and the United States have acted steadily on the principle of extinguishing the Indian title by treaty and the payment of a price.

The American law applicable to the English colonists and colonies was elaborately considered by Chief Justice Marshall, speaking for the Supreme Court of the United States in 1832 and the following positions approved:

> America, separated from Europe by a wide ocean, was inhabited by a distinct people, divided into separate nations, independent of each other and of the rest of the world, having institutions of their own, and governing themselves by their own laws. It is difficult to comprehend the proposition, that the inhabitants of either quarter of the globe could have rightful original claims of dominion over the inhabitants of the other, or over the lands they occupied; or that the discovery of either by the other should give the discoverer rights in the country discovered, which annulled the pre-existing right of its ancient possessors.
>
> After lying concealed for a series of ages, the enterprise of Europe, guided by nautical science, conducted some of her ad-

venturous sons into this western world. They found it in possession of a people who had made small progress in agriculture or manufactures, and whose general employment was war, hunting, and fishing.

Did these adventurers, by sailing along the coast, and occasionally landing on it, acquire for the several governments to whom they belonged, or by whom they were commissioned, a rightful property in the soil, from the Atlantic to the Pacific; or rightful dominion over the numerous people who occupied it? Or has nature, or the great Creator of all things, conferred these rights over hunters and fishermen, on agriculturists and manufacturers?

But power, war, conquest, give rights, which, after possession, are conceded by the world; and which can never be controverted by those on whom they descend. We proceed, then, to the actual state of things, having glanced at their origin; because holding it in our recollection might shed some light on existing pretensions.

The great maritime powers of Europe discovered and visited different parts of this continent at nearly the same time. The object was too immense for any one of them to grasp the whole; and the claimants were too powerful to submit to the exclusive or unreasonable pretensions of any single potentate. To avoid bloody conflicts, which might terminate disastrously to all, it was necessary for the nations of Europe to establish some principle which all would acknowledge, and which should decide their respective rights as between themselves. This principle, suggested by the actual state of things was, "that discovery gave title to the government by whose subjects or by whose auhority it was made, against all other European governments, which title might be consummated by possession."

This principle, acknowledged by all Europeans, because it was the interest of all to acknowledge it, gave to the nation making the discovery, as its inevitable consequence, the sole right of acquiring the soil and of making settlements on it. It was an exclusive principle which shut out the right of competition among those who had agreed to it. It regulated the right given by discovery among the European discoverers; but could not affect the rights of those already in possession, either as aboriginal occupants, or as occupants by virtue of a discovery made before the memory of man. It gave the exclusive right to purchase, but did not found that right on a denial of the right of the possessor to sell.

The relation between the Europeans and the natives was determined in each case by the particular government which asserted and could maintain this preemptive privilege in the particular place. The United States succeeded to all the claims of Great Britain, both territorial and political; but no attempt, so far as is known, has been made to enlarge them. So far as they existed merely in theory, or were in their nature only exclusive of the claims of other European nations, they still retain their original character, and remain dormant. So far as they have been practically asserted, they exist in fact, are understood by both parties, are asserted by the one, and admitted by the other.

Soon after Great Britain determined on planting colonies in America, the king granted charters to companies of his subjects who associated for the purpose of carrying the views of the crown into effect, and of enriching themselves. The first of these charters was made before possession was taken of any part of the country. They purport, generally, to convey the soil, from the Atlantic to the South Sea. This soil was occupied by numerous and warlike nations, equally willing and able to defend their possessions. The extravagant and absurd idea, that the feeble settlements made on the sea-coast, or the companies under whom they made, acquired legitimate power by them to govern the people, or occupy the lands from sea to sea, did not enter the mind of any man. They were well understood to convey the title which, according to the common law of European sovereigns respecting America, they might rightfully convey, and no more. This was the exclusive right of purchasing such lands as the natives were willing to sell. The crown could not be understood to grant what the crown did not affect to claim; nor was it so understood.

The power of making war is conferred by these charters on the colonies, but defensive war alone seems to have been contemplated. In the first charter to the first and second colonies, they are empowered, "for their several defences, to encounter, expulse, repel, and resist, all persons who shall, without license," attempt to inhabit "within the said precincts and limits of the said several colonies, or that shall enterprise or attempt at any time hereafter the least detriment or annoyance of the said several colonies or plantations."

The charter to Connecticut concludes a general power to make defensive war with these terms: "and upon just causes to invade and destroy the natives or other enemies of the said colony."

The same power, in the same words, is conferred on the government of Rhode Island.

This power to repel invasion, and, upon just cause, to invade and destroy the natives, authorizes offensive as well as defensive war, but only "on just cause." The very terms imply the existence of a country to be invaded, and of an enemy who has given just cause for war.

The charter to William Penn contains the following recital: "And because, in so remote a country, near so many barbarous nations, the incursions, as well of the savages themselves, as of other enemies, pirates and robbers, may probably be feared, therefore we have given," &c. The instrument then confers the power of war.

These barbarous nations, whose incursions were feared, and to repel whose incursions the power to make war was given, were surely not considered as the subjects of Penn, or occupying his lands during his pleasure.

The same clause is introduced into the charter to Lord Baltimore. The charter to Georgia professes to be granted for the charitable purpose of enabling poor subjects to gain a comfortable subsistence by cultivating lands in the American provinces "at present waste and desolate." It recites: "And whereas our provinces in North America have been frequently ravaged by Indian enemies, more especially that of South Carolina, which, in the late war by the neighboring savages, was laid waste by fire and sword, and great numbers of the English inhabitants miserably massacred; and our loving subjects, who now inhabit there, by reason of the smallness of their numbers, will, in case of any new war, be exposed to the like calamities, inasmuch as their whole southern frontier continueth unsettled, and lieth open to the said savages."

These motives for planting the new colony are incompatible with the lofty ideas of granting the soil and all its inhabitants from sea to sea. They demonstrate the truth, that these grants asserted a title against Europeans only, and were considered as blank paper so far as the rights of the natives were concerned. The power of war is given only for defence, not for conquest.

The charters contain passages showing one of their objects to be the civilization of the Indians, and their conversion to Christianity—objects to be accomplished by conciliatory conduct and good example; not by extermination.[103]

[103] Worcester v. The State of Georgia, Peters U. S. Reports, vi. 542–545.

Intending colonists were bound to explore before occupying, under the principles thus affirmed.

They had, for the purpose of creating a title, to take a limited possession. Entry on the country which this implied was one step; and the first one, which always counts and costs the most. The next step is to stay until the purpose is accomplished. Meanwhile how is the government to be administered by the inhabitants, if there be any; and how by the new comers? The intending colonists bring with them their home law, so far as it is reasonably applicable. It will ordinarily be fairer and more definite than the law, or what stands for law, of the natives.

The preliminary explorations, required by American public law of those claiming title by discovery to uninhabitated lands, were carefully made by the settlers of New Plymouth.

Armed parties were sent off from the settlement to ascertain if there were any inhabitants in the vicinity, and if so whether they were friendly or hostile. They knew that the Dutch had traded with the Indians at Windsor, and expected to find that the Virginia party had made formal claim to jurisdiction, or that the Dutch had taken possession.

Five years after Henry Hudson sailed up the great river, to which the English, not the Dutch, have given his name, in the year 1614, there appeared before the Assembly of the States General of the United Netherlands, the deputies of the "United Company of Merchants, who have discovered and found New Netherland, situate in America, between New France and Virginia, the seacoasts whereof lie in the latitude of 40 to 45 de-

grees." They came to ask a grant of an exclusive right to settle and trade with these countries, and obtained a monopoly for three years; which was afterwards extended, in favor of the Dutch West India Company, for four years from 1621.

The original patent of New England (granted in 1620) embraced all that part of North America between the 40th and 48th degrees of north latitude, "from sea to sea." A glance at the map will show that these boundaries run as far south as Philadelphia, and north to Quebec. Lord Say and Seal, and his associates, who were about to plant a new colony, in 1631, southwesterly from Massachusetts, obtained their grant under this old "Warwick patent."

The lands they purchased comprehended "all that part of New England in America, which lies and extends itself from a river there, called Narraganset river, the space of 40 leagues, upon a strait line near the sea shore, towards the South West, West, and by South or West, as the coast lieth towards Virginia, . . . and all . . . . the lands . . . being within the lands aforesaid, North and South in latitude . . . and in . . . longitude, of and within all the breadth aforesaid, throughout the mainlands there, from the Western ocean to the South Sea, . . . and also all the islands lying in America aforesaid, in the said seas, or either of them, on the Western or Eastern coasts or parts of the said tracts of lands."

The first settlers of the Colony of New Haven, derived their title under these grants,[104] and spread towards the west and south, according as they found openings

[104] 2 New Haven Col. Rec., 517.

for trade or plantations, extending their jurisdiction as far south as Delaware Bay, by vote of the General Court,[105] as early as 1641.

Purchases from the Indians were made from time to time in the common interest; the most westerly lands, thus acquired, being within the present bounds of Greenwich.

The Dutch, although claiming title as far east as the Fresh River (now Connecticut River), were not in a condition to oppose any very energetic resistance to the advance of New Haven.

Their first formal protest was received by the General Court in 1646.[106] It was written in Latin—the diplomatic language of the day—and ran in the name of William Kieft, General Director, and the Senate of New Netherland "to Thee, Theophilus Eaton, Governor of the place by us called the Red Hills in New Netherland (but by the English called New Haven)." It is almost to be regretted that the Dutch name, rather than the English, did not finally attach to New Haven—so graphically does it describe the two rugged sentinels, on either side, which give its character to the New Haven plain.

This document accused New Haven of an insatiable desire of possessing that which it did not own, and of a determination to fasten its foot near Mauritius River, and there to destroy the trade between the Dutch and the Indians.

A reply, also in Latin, was adopted by the Court, from which I quote a few sentences:

"We do truly profess we know no such River" (as

[105] 1 *Ibid.* 57.
[106] *Ibid.* 265.

the Mauritius River), "neither can we conceive what River you intend by that name, unless it be that which the English have long and still do call Hudson's River. Nor have we, at any time, formerly or lately, entered upon any place, to which you had or have any known title." For further satisfaction, they were referred to the English government, "being well assured that his Majesty, our Sovereign Lord, Charles, King of Great Britain, and the Parliament of England, now assembled, will maintain their own right and our just liberties, against any who, by unjust encroachment, shall wrong them or theirs."

King Charles and the Parliament, however, were too busy fighting each other, just then, to take much thought about the handful of colonists in the woods of New England. The matter was brought before the Commissioners of the United Colonies, at a meeting held at New Haven, but Governor Kieft scoffed at their authority: "We protest," he writes,[107] "against all you, Commissioners, met at the Red Mounts, as against breakers of the common league, and also infringers of the special right of the lords of the States, our superiors, in that ye have dared, without express commission, to hold your general meeting within the limits of New Netherland." His successor, under instructions from the Dutch West India Company to fix, if possible, upon some provisional boundary with New Haven; showed a more friendly spirit; and the treaty of Hartford,[108] in 1650, between the Commissioners of the United Colonies and Governor Stuyvesant, was designed to bring the controversies over jurisdiction to a close. It provided, among other

[107] 1 Dunlap's Hist. of New York, 92.
[108] 1 American Historical Magazine, 194, 229.

things, that the dividing line between the English and the Dutch "upon the main" should be fixed, to "begin on the West side of Greenwich Bay, being about four Miles from Stamford, and so to return a Northerly line twenty Miles up into the Country; and after as it shall be agreed by the two Governments of the Dutch and New Haven, provided the said line come not within Ten Miles of Hudson's River; and it is agreed that the Dutch shall not, at any time hereafter, build any House or Habitation within Six Miles of the said Line; the Inhabitants of Greenwich to remain (till further Consideration thereof be had) under the Government of the Dutch." These bounds were to be maintained inviolate, "until a full and final Determination be agreed upon, in Europe, by mutual Consent of the two States of England and Holland."

It is the negotiation of this treaty which is so pleasantly hit off in Knickerbocker's History of New York: —the solemn embassy of two of the most ponderous burghers of New Amsterdam, bearing the very spy-glass with which a Dutch trader had first discovered the mouth of Connecticut River;—the "two, lean Yankee lawyers, litigious-looking varlets," who were deputed to receive them;—the triumphant production of the ancient spy-glass, and the dismay when the other side "produced a Nantucket whaler with a spy-glass twice as long, with which he discovered the whole coast, quite down to the Manhattoes, and so crooked that he had spied with it," not only the mouth, but the whole course of the river from Saybrook to the Massachusetts line.

The border difficulties still continued, and in 1653, New Haven sent one of her citizens to London to ask

aid from Cromwell, then Protector. He did not wait to be asked twice; and the next summer saw a British expedition against the Dutch, landing at Boston, to which New Haven joyfully added a little army of 133 men. Peace with Holland however had already been concluded across the ocean, and the news came in time to stop any hostile advance. New Haven now insisted, with threats that force would otherwise be used, that Greenwich must be deemed within her jurisdiction; and the demand was complied with by the complete submission of its inhabitants in 1656, and its peaceful consolidation (for purposes of representation, at least), with Stamford.[109]

Had New Haven retained its independence, who shall say how far the skillful state-craft and firm guidance of her Eatons, Newmans, Goodyears and Leetes might have carried her western bounds? But in 1662 came the royal charter of Connecticut, bounding her "East by Narragansett River, commonly called Narragansett Bay, where the said river falleth into the sea; and on the North by the line of the Massachusetts plantation; and on the South by the sea: and in longitude, on the line of the Massachusetts Colony, running from East to West, that is to say, from the said Narragansett Bay on the East, to the South Sea on the West part, with the islands thereunto adjoining."

The English had by this time their settlements across the Byram river, and a letter has been preserved, written by Gov. Stuyvesant in 1663, urging some friendly termination of the differences as to the jurisdiction over "East Dorfe, by the English called West Chester, that the parties may live in peace in the Wilderness, where

[109] 2 N. H. Col. Rec., 176, 216, 185.

so many barbarous Indians dwell." But, the next year, came the surrender of New Amsterdam to the Duke of York, whose patent included "all that island or islands commonly called by the general name or names of Meitowax, or Long Island, situate and being towards the west of Cape Cod, and the narrow Highgansetts, abutting upon the main land between the two rivers, there . . . known by the . . . names of Connecticut and Hudson's River; and all the land from the west side of Connecticut river to the east side of Delaware Bay."

It is obvious that this grant, under which the Colonies of New York and New Jersey were afterwards constituted, covered much which was also in the Connecticut patents.

In those days, the geography of North America was hardly as well understood at London, as that of Central Africa is now; nor apparently did the Crown officers, in making out a new patent, trouble themselves to inquire as to what had been already granted by former conveyances. Long Island, for instance (not to mention the claim of Connecticut to it), had been long before granted to the Earl of Stirling; and the Duke of York found it necessary to give him three hundred pounds for a release of his title.

The Dutch were as ignorant as the English of the real extent or bounds of the territory to which each was laying claim. In Van der Donck's Description of New Netherlands (1656), he says:

> Many of our Netherlanders have been far into the country, more than seventy or eighty miles from the river or sea-shore. We also frequently trade with the Indians, who come more than ten and twenty days' journey from the interior, and who have

been farther off to catch beavers, and they know of no limits to the country, and when spoken to on the subject they deem such enquiries to be strange and singular. Therefore we may safely say that we know not how deep or how far we extend inland. There are, however, many signs which indicate a great extent of country, such as the land winds, which domineer much, with severe cold, the multitudes of beavers and land animals which are taken, and the great numbers of water fowl which fly to and fro across the country in the Spring and Fall seasons. From these circumstances we judge that the land extends several hundred miles into the interior.

The Eastern boundary of the Connecticut charter would seem to be plain enough, but Rhode Island, which obtained a charter in 1663, bounding her west on the "Pawcatuck River, alias the Narragansett River," immediately called it in question.

In fact, the Pawcatuck falls into the Sound some twenty-five miles west of the Narragansett, and makes no bay; but, owing to an ill-advised concession of the agent of this Colony, the grant was worded as it was, and she finally, in the next century, yielded her original claim.

Rhode Island was unfortunate in the rivers from which her boundaries were derived, on the north as well as on the west. Like Connecticut, she was bounded northerly on the south line of Massachusetts, and this line was, by the Massachusetts charter, to be three miles south of the most southerly part of the Charles River. Massachusetts asserted that the "most southerly part of the Charles River" was the most southerly part of any run of water which was an *affluent* of the Charles River. A brook was found, named Mill brook, which ran into the Charles River from Whiting's pond, lying towards the south; and into the south end of this pond

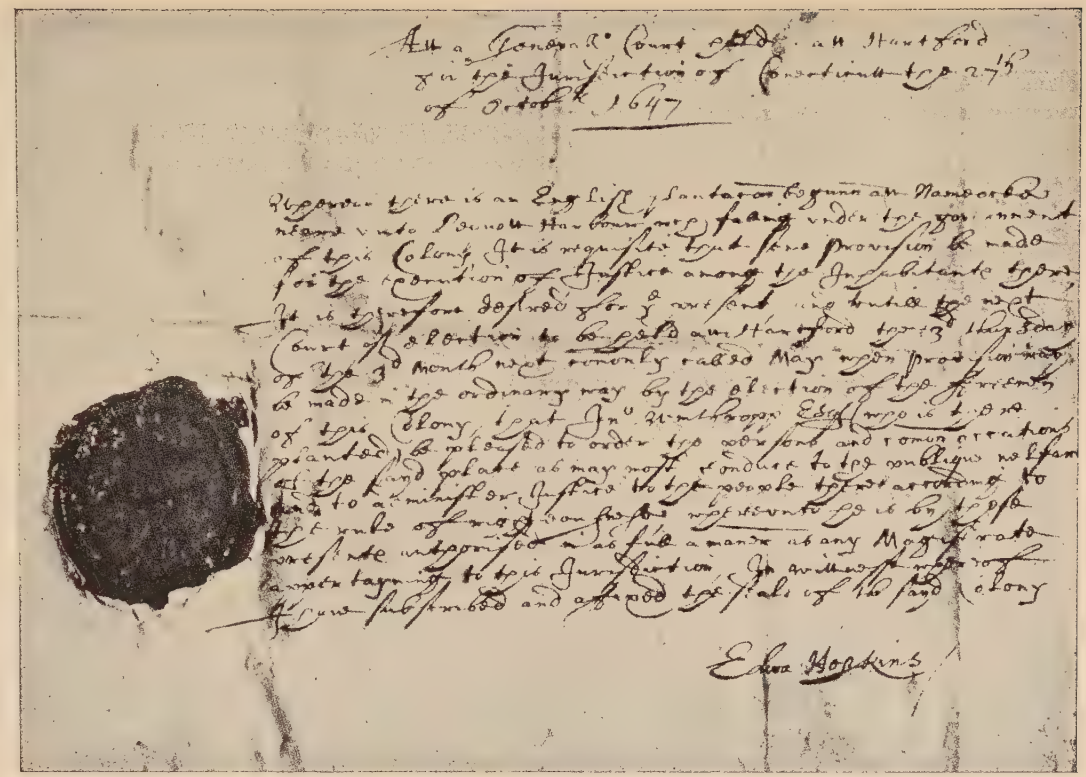
ran a smaller brook, called Jack's Pasture brook, and the spring head of this, they claimed—and after two hundred years of controversy, the claim was finally allowed—was the most southerly part of Charles River.[110]

The evacuation of New Amsterdam and the transfer of its claims to the king's brother, brought a speedy determination of the Western boundary of Connecticut. Commissioners were appointed from each Colony in 1664, and soon agreed that the Southern bounds of Connecticut were the sea, and that Long Island belonged to the Duke. The west bounds[111] were to be "the creeke or ryver called Momoronock, which is reported to be about 12 myles to the east of West Chester, and a lyne drawne from the East point or syde, where the fresh water falls into the salt, at high water mark, N.N.W. to the line of the Massachusetts."

This adjustment of differences, while it ended the pretensions of Connecticut to run to the Pacific Ocean (so far as the southeastern portion of the territory of New York was concerned), and terminated her jurisdiction over Long Island, where Southampton, Easthampton, Setauket, and other towns had long acknowledged her authority, yielded also the claim of New York to extend to the Connecticut River, and thus confirmed to Connecticut the title to five considerable towns along the Sound. Governor Nicolls of New York wrote to the Duke soon afterwards, justifying the decision as required by the priority of the Connecticut patent, and adding "that to the east of New York and Hudson's River, nothing considerable remains to your Royal

[110] Rhode Island *vs.* Massachusetts. 4 Howard's U. S. Supreme Court Rep., 591.

[111] 1 Boundaries of N. Y., p. 25.



COMMISSION OF JOHN WINTHROP AS FIRST MAGISTRATE OF NEW LONDON, OCT. 27, 1647.
It bears the Oldest Known Impression of the Seal of Connecticut.

Highness, except Long Island, and about 20 miles from any part of Hudson's River. I look therefore upon all the rest as empty names, & places, possesst 40 years by former grants, and of no consequence to your Royal Highness, except *all New England* could be brought to submit to your Royal Highness's Patent."

The Commissioners of Connecticut, however, had made a better bargain than the Governor supposed. From Tarrytown to Newburgh, the Hudson takes a course not far from N.N.W. and it would seem that the New York Commissioners—not long from England—thought that the N.N.W. line, laid down in their final agreement, ran parallel to the river, and about twenty miles from it. In fact, however, as it is probable the Connecticut Commissioners, who were old inhabitants, well knew, this N.N.W. line crossed the Hudson near West Point, and, if projected, reached a point not far from where Utica now is. Connecticut pushed her settlements to the edge of this line, claimed jurisdiction over Rye, and complained loudly of grants of territory on the east side of the Hudson, made by the New York government.

In 1683, Andros was succeeded by Governor Dongan, who at once notified Connecticut that he was not satisfied with the old agreement of 1664, and desired a new convention on the subject. She appointed Commissioners to treat with him, and in a fortnight's time, a wholly new boundary was created. This was to

> begin att a certain brook or river called Byram brooke or river, which river is between the towns of Rye and Greenwich; that is to say, at the mouth of the said brooke, where it falleth into the Sound, at a Point called Lyon's Point, which is the eastward point of Byram river, & from the said point to goe as the said

river runeth, to the place where the common road, or wading place over the said river, is; and from the said road or wading-place to goe N.N.W. into the country soe farr as will be 8 English miles from the aforesaid Lyon's point.

Another eight mile, N.N.W. line was then to be run parallel to the first, beginning twelve miles farther eastward on the Sound, and a line connecting their northern ends was to bound Connecticut, on the side of Westchester. From the eastern end of this North line, another line was to be run, parallel to the Hudson and twenty miles distant from it, until the bounds of Massachusetts were reached. But how could a line well be drawn, at once parallel to the Hudson, and in every place twenty miles distant from it? Obviously its course, following the constant, through slight bends in the river, would be of such an irregular and "zig-zag" character, as to make it quite unsuited for a permanent boundary between two States. To meet this difficulty, it was agreed to begin by taking two points, one on the Massachusetts line, and the other where Connecticut meets Westchester County, each just twenty miles from the Hudson, and connecting them by a straight line: then the area which was east of this line, and yet within the twenty miles, was to be ascertained; and, finally, a new line drawn, parallel to the first, but so far east of it as to include, within a long and narrow parallelogram, a number of acres precisely equal to that outside of this first line, and, yet, less than twenty miles from the river. The eastern side of this parallelogram, or "equivalent tract," as it was called, was to be the final boundary between the States. Subsequent surveys fixed its area at a little more than 60,000 acres; and in 1684, the southern portion of the boundary, as agreed upon, was

marked by what were designed to be permanent monuments.

The Commissioners who conducted these negotiations on the part of Connecticut, had secret instructions to get Governor Dongan "to take up with as little as may be;" and that "as to the rise of our line at Momarronoke, you are to declare there could be no mistake between the Commissioners [in 1664] about that, and therefore endeavor to hold that bound." Justice, however, was plainly on the side of New York, and the concessions made to her on this occasion were practically unavoidable. As the Commissioners wrote to the selectmen of Rye on their return from "Yorke," "we were loath to have parted with you, and would have been glad to have continued you in this government; yet the providence of God hath so disposed that by our agreement with Governor Dongan, we were forced to part with you, & could not help it." They succeeded, however, in making it a part of the settlement that the tax rate of Rye for 1683 and all arrearages of taxes levied by Connecticut for previous years should be paid into her treasury.

It was for years Governor Dongan's hope that the whole of Connecticut might be annexed to his province. In his Report to the Committee of Trade, on the Province of New York, of Feb. 22d, 1687, he urges this measure as "an absolute necessity," [112] "Connecticut being so conveniently situate in its adjacing to us, and soe inconvenient for the people of Boston by reason of its being upwards of two hundred miles distance from thence. Besides Connecticut, as it now is, takes away from us almost all the land of value that lies adjoyneing to Hud-

[112] 1 Documentary History of New York, 153.

sons River & the best part of the river itself. Besides, as wee found by experience, if that place bee not annexed to that Government, it will bee impossible to make anything considerable of his Mat^ys^ customs & revenues in Long Island: they carry away, with^t^ entring, all our oyles, which is the greatest part of what wee have to make returns of from this place: And from Albany and that way up the river—our Beaver and Peltry."

"This Government too has an undoubted right to it by charter, which his late Ma^ty^ of Blessed Memory granted to our present King, and indeed if the form of the Government bee altered, these people will rather choose to come under this, than that Governm^t^ of Boston, as y^r^ Lo'^ps^ will p'ceive by their present Gov^rs^ lres directed to me." [113]

On the other hand, the Long Island towns had not ceased to look towards a possible reunion with Connecticut, and soon after the accession of William and Mary, two years later, we find the people of Easthampton planning "a Petition to their Majesties y^t^ we might be rejoyned w^th^ Connecticut Governm^t^, as formerly, agreeably to the act of Parliament, y^t^ all places, N.E. being particularly mentioned, shall have the same privileges they enjoyed in y^e^ yeare 1660 restored unto them." [114]

Threats on the part of Connecticut to reclaim jurisdiction over Bedford and Rye led New York, at last, to apply to the King in Council for a confirmation of the Dongan boundary agreement of 1683; and the order of confirmation was made in 1700.

A serious dispute sprang up between the two Colonies soon after the survey of 1684, as to the point at which

[113] *Ibid.*, 150.
[114] 2 Doc. Hist. of N. Y., 187.

that survey terminated on the east. The surveyors, beginning at the mouth of Byram river, ran a line from "a great stone at the wading place, where the road cuts the said river," N.N.W. six and one-half miles to three white oak trees, which they marked C. R., and found to be seven miles and one hundred and twenty rods from the Hudson. They then continued on from these trees upon a line parallel to the Sound, to a point twenty miles from the Hudson and eight miles N.N.W. from the Sound, and there stopped.

Connecticut always claimed that at this point they marked an oak tree, as a land-mark; and that both this tree, known as the "duke's tree," and the three white oak trees at the other end of the same line, could easily be identified.

New York, on the other hand, after a few years, maintained that these monuments were uncertain, and that a new survey must be had to fix the line. Repeated applications were made by New York to Connecticut to join in such a survey, but for nearly forty years Connecticut refused to join, unless the position of the "duke's tree" were first conceded, and made a starting point. In 1723 we find the legislature resolving that this tree has ever since 1684 "borne the name of the duke's tree, and is famously known by the said name, and is by the said survey considered, stated, and esteemed to be twenty miles from Hudson's River. All which marks and monuments have been, ever since the said survey fixing them, famously known as they are at this day."

The last attempt to agree on a boundary was in 1724, when each Colony appointed Commissioners—those of New York with full powers, but those of Connecticut

restricted to the line of the 1684 survey. It came to nothing, and the New York commissioners reported to Governor Burnet that it was "not easy to tell by what Rules the Commissioners of Connecticut acted, they were so contradictory to themselves, and to the Public acts of their own Government. They seemed Steady in Nothing, but in the Ambigious manner of their giving Assent to any of our Proposals, which had taken away all colour of Reason for Dissenting; or by giving their assent upon conditions Slily insinuated, & entirely foreign to the matter in Question, and highly injurious to this Province."

Worn out by fruitless negotiations, which at length became bitter and personal controversies, New York finally requested the royal sanction to an Act permitting her to run the boundary *ex parte,* unless Connecticut should, within nine months, consent to join in establishing it. The king approved the measure, and Connecticut was obliged to appoint commissioners to fix the line. They met commissioners from New York in 1725, and, in a few weeks, the little parallelogram which ends at Byram River, and is in advance of the general western line of Connecticut, was amicably re-measured and remarked. The three white oak trees at the first (or N.W.) corner were still standing. Some burned wood was buried near them, and C. R. cut upon a large stone at the same place. The main north and south line, it was agreed, should not, as before, be run straight, but, in order to preserve Ridgefield to Connecticut, should make an angle opposite Peekskill; approaching there a point which would be twenty miles from Courtlandt's (or Verplank's) Point, were it not for the interposition of the "equivalent tract." This was found to require

a breadth of a little over one and three fourths miles, throughout its whole extent, and its eastern boundary was definitely surveyed in 1731, by running a straight line from the monument opposite Courtlandt's Point to a monument on the Massachusetts line, of a course "nearly north twelve degrees and thirty minutes east" and "parallel to the Hudson's River," which line was marked by monuments set every other mile; and then by running a parallel line to the eastward, of the breadth necessary to include the equivalent tract, and marking this again by occasional monuments.

This amicable conclusion of a controversy of almost a century's standing was due partly to a spirit of mutual forbearance and partly to the good management of the New York commissioners. These gentlemen seem to have well understood one of the chief engines of diplomacy—the exercise of a generous hospitality toward those with whom you are to negotiate. By their bill, as rendered to the Governor and Council, we find that they commenced their labors on April 16, 1725, by the purchase, among an abundance of other more substantial articles of provisions, of 16½ gallons of rum, 6 shillings of ginger-bread, 6 pounds of chocolate, 13 pounds of loaf sugar, 1 pound of cinnamon, and 1 ounce of nutmegs, 1½ gallons of lime juice, 6½ gallons of brandy, 350 limes, and 8 shillings worth of tobacco and pipes. 2 shillings worth of hooks and lines are also charged; and we may easily picture to ourselves these worthy gentlemen inviting their Connecticut antagonists to join in many a friendly trouting excursion, ending with a picnic dinner in the fields with unlimited punch and pipes. Perhaps a game supper may have closed their labors, for

among the last day's charges appear "partridge and other small things, 9s. 6d."

It is much to be regretted that the boundary marks set up by these commissioners were not of a more permanent character. Let me describe one or two of them in the words of their own report.

> We sett up a stake, heaped some stones round it for a monument, being in a swamp, and on the North West side of a brook, which runs into the pond of a sawmill; and marked some trees on each side of said monument, in a North 24 deg. 30 min. West Course. Corrisponding to the sixth mile in the Western line, as aforesd., we sett up a stake in the middle of a bogie meadow.

Marks like these could not be expected to remain in a condition to be easily identified, after a lapse of even ten or twenty years, were it only for the operation of natural causes; but during the centuries which have passed since their erection, military camps have been established, roads laid out, houses built, and farms cleared, over different parts of the boundary line, in such a manner that what would, in any event, have been difficult, is now probably impossible.

Many also of the natural objects, designated as landmarks in the ancient surveys, are no longer to be found. The "wading-place in Biram river" has been long replaced by a bridge with high embankments, and similar transformations occur all along the line.

There had been negotiations between the Dutch and English for a treaty for some ten years when, in 1641 Rev. Hugh Peters, one of the most noted clergymen in New England, returned to England, bearing the following commission:

> Authority to the Reverend Mr. Peters to treat with the West India Company.

Whereas Mr. Hugh Peters, Minister of Salem, the bearer hearof, is sent at the public request to England, to negotiate with the present Parliament respecting such matters as concern us which we confide to his care and fidelity.

This is to authorize him, if occasion permit him to go to the Netherlands, to treat with the West India Company here, concerning a peaceable neighborhood beween us and those of New Netherland, and whatever he shall further think proper touching the West Indies, to the end that we may have union and intercourse with one another, God willing, in a matter of such great importance the details to be negotiated are referred to such propositions as shall be presented on meeting together.

(Signed) John Winthrop,
Governor of Massachusetts.
John Haynes,
Governor of Connecticutt.[115]

The 10th October, 1641
In the bay of Massachusetts
in New England.

Peters entered heartily into the civil war and was on terms of intimacy with the Parliamentarians. He was a master of public speaking, and on several occasions was made a messenger of Cromwell to bear news of a victory. He was "the first freeman of Massachusetts who lost his life for opposition to monarchy."

The West India Company, in the first half of the 17th century, was represented, by arrangement between the Dutch Government and the Company, by that informal instrument of communication, but it was an instrument with very extensive powers and possibilities within its control. Connecticut in 1643 changed its relation to New England by joining the Confederation formed that year by the United Colonies of New England. This Confederation claimed jurisdiction over all infringements of the rights of New England as against

[115] Documents relating to the Colonial History of New York, I, 568.

the Dutch Government and its representatives. Prior to 1643, the governors of Massachusetts and Connecticut had claimed jurisdiction for questions arising between the Dutch and English settlers in the valley of the Connecticut. After 1643, the power to act in international relations between the West India Company and the two colonies named was vested in Mr. Peter's commission, which was consulted in any matters of controversy, as well as the government of the United Colonies of New England. The United Colonies Court was seldom in session, while the Governors of Massachusetts and Connecticut were easily accessible at all times and seasons.

A prominent figure in the negotiations leading to the boundary settlement in 1650 was the Earl of Warwick, and another was Viscount Say and Seal, who received that title in 1624, after passing through the troubles which at this period distracted England, becoming Lord of the Privy Seal after the Restoration, which he had been instrumental in bringing about. He was friendly to the Puritans, and actively supported the movement to New England. He maintained a not infrequent correspondence with other leaders of thought during the civil war in England.

Early in 1642, certain articles which were submitted to the Council of State of the Republic of England by Lord Say and Seal and the Earl of Warwick were under consideration. Some extracts are quoted, acquaintance with which will best give information of the points at issue at that time.

The inhabitants and subjects of the aforesaid Republic of England and of the State General of United Netherlands shall sail and trade to the Carribbee Islands and to Virginia free and un-

molested, in the same manner as they have hitherto resorted to and traded with these places, without any distinction as to whether those islands and places were first or last occupied or possessed by the inhabitants and subjects of the aforesaid Republic or of the United Netherlands, any prohibition published or promulgated to the contrary notwithstanding.

And, with a view in like manner, to maintain friendship, peace and good neighborhood between both the nations aforesaid on the Continent of North America, a just, certain and immovable Boundary line there shall be settled and determined as soon as possible.

The writers of this memorial, which contained thirty-six articles in all, proceed thus:

For answer to the eleventh, wee say; That the people of the Commonwealth of England having been always strictly forbidden Trade in all Plantations and places belonging to the United Provinces that are not within the Netherlands; Wee shall acquiesce therein, and shall therefore forbeare to sayle or trade with any of their plantations abroad; and shall not interrupt or disturbe them in their sayling to them. And as for their tradeing to any of the English Plantations, it is forbidden by the late Act for Encrease of the Navigation of this Nation, from which weethinke not fit to recede.

To the twelfth, wee say that the English were the first planters of the Northern firme land of America, and have plantations there from the southernmost part of Virginia, in Thirtie seven degrees of North latitude, to Newfoundland, in Fiftie two degrees; and not knowing of any plantation of the Netherlanders there save a small number up in Hudson's river, wee think it not necessary at present to settle the limits, which may be done hereafter in convenient time.

Not long after his return, Lord Say and Seal, on July 31, 1642, complained to the Dutch authorities at the Hague as follows:

Many of the English (his Majesty's Subjects) having been incorporated by his Majesty's letters patent and having, in order to obviate all difficulties, purchased the land from the natives, the acknowledged and right owners thereof, established divers

factories on the river Conectecot, in New England, where they have experienced manifold molestations and insolences from the Dutch nation, who, having previously erected a small factory on the aforesaid river, claim, in virtue thereof, the right to the whole, and not only that, but to all the extent of country from Naragansett Bay to Hudsons river, which they call by the name of New Netherland, although it had been granted by his Majesty to divers of his subjects, and is exclusively inhabited by the English, entered many protests against the peaceable proceedings of the English, towards whom they have transgressed in various manners and ways, adding thereunto sundry threats and haughty arguments. All which the English bore, and though no more than five or six Dutch, at most, reside on the aforesaid river Conecticot, where there exceeding two thousand English, yet the latter have not used any violence against them, but treated them with all kindness; yea, have they been the means, under God, of saving their lives.

The Dutch sometimes, 'tis true, aver that they purchased from the Pequot Indians, a piece of land lying on the aforesaid river, to which, in virtue of that purchase, they pretend a right. But if any such purchase has been effected, which has never been proved, it is very well known that the Pequots had no just, but an usurped title. And herein is apparent the weakness of their claim: the English, by divers letters addressed to Governor Willem Kieft, residing on Hudsons river, offered to refer the settlement of the aforesaid difference to disinterested arbitrators, but he would not accept it.

It is requested that they be ordered to demean themselves, in the place they occupy, in a peaceable, neighborly manner, and be content with their own limits, or required to leave the river; which would tend most to their masters' advantage; it being very probable that the returns have never repaid, or will never reimburse, their outlays. Moreover, they live there without rule, in a godless manner, beseeming in no wise the Gospel of Christ. Their abode there will never be productive of any other effect than expense to their masters, and trouble to the English.[116]

The records of the United Colonies of New England show that at a General Court held in 1646 a protest from Governor Kieft of New Netherland was read.

[116] Documents relating to the Colonial History of the State of New York, I, 128.

Quotations from the resulting correspondence are given, which is self-explanatory.[117]

The protest came in Lattyn; the contents in English are as followeth:

Wee Willyam Kieft, Gen'all Director, & the Senate of New Netherland, for the high and mighty Lords the States of the United Belgicke Provinces for his excellency the Prince of Orange & for the most noble Lords the Administrat^rs of the West India Company, To Thee, Theophilus Eaton, Gou^rnor of the place called by us the Red Hills in New Netherland, (but by the English called New Haven) we give notice, That some yeares past, yours, without any occasion given by us, & without any necessity imposed upon them, but w^th an unsatiable desire of possessing that w^ch is ours, against our protestacons, against the lawe of nations, & against the antient league betwixt the kings ma^tie of Great Brittaine & our Superiors, have indirectly entred the lymits of New Netherland, usurped diu^rs places in them & have beene very injurious unto us, neither have they given satisfaction though oft required. And because you & yours have of late determined to fasten your foote neere Mauritius Ryver in this Province & there not onely to disturbe our trade of noe man hitherto questioned, & to drawe it to y^rselves but utterly to destroy it, we are compelled againe to ptest & by these p^rsents we doe ptest against y^u as against breakers of the peace & disturbers of the publique quyet, that if y^u doe not restore the places y^u have usurped & repaire the losse we have suffered, we shall by such meanes as God affoards, manfully recou^r them, neyther doe we thinck this crosseth the publique peace, but shall cast the cause of the ensuing evill upon you. Given in Amsterdam Fort Aug. 3, 1646, new stile.

WILLYAM KIEFT.

The answer was returned in Lattin to the sayd ptest, the contents as followeth,

To the Right Wor^ll W^m. Kieft, Gou^rnor of the Dutch in New Netherland,

Sr. By some of y^rs I have lately receaved a ptest under y^r hand dated August the 3^d 1646, wherein y^u ptend we have indirectly

[117] New Haven Colonial Records I, 265, 266.

entred the lymits of New Netherland, usurped diu^{rs} places in them, & have offered you many inuries; thus in gen^{r}ll & in reference to some yeares past, more particularly to the disturbance, nay to the utter destruction of y^{r} trade, we have lately set foote neere Mauritius Ryu^{r} in that Province.

We doe truly pfesse we know noe such Ryu^{r}, neither can we conceave what Ryu^{r} y^{u} intend by that name, unless it be that w^{ch} the English have long & still doe call Hudsons Ryu^{r}. Nor have we at any time form^{r}ly or lately entred upon any place to w^{ch} y^{u} had or have any knowen tytle, not in any other respect beene inurious to y^{u}. It is true we have lately upon Pangaset riu^{r}, w^{ch} falls into the sea in the midst of these English plantacons, built a small house within o^{r} owne lymitts, many miles, nay leagues from the Monhattoes, from yo^{r} trading house & from any part of Hudsons Ryu^{r}, at which we expect little trade, but can compell none. The Indians being free to trade wth y^{u}, us, Conecticaut, Massachusetts or wth any other, nor did we build there till we had first purchased a due tytle from the true proprietors. What inuries & outrages in our psons and estates, at the Manhattoes, in Deleware Ryu^{r}, &c, we have receaved from y^{u}, o^{r} form^{r} letters & protest doe both declare & pve, to all w^{ch} y^{u} have hitherto given very unsatisfying answers, but whateu^{r} o^{r} losses & sufferings have beene, we conceave we have neither done or returned any thing, even to this very day, but what doth agree with the laws of God, the lawe of nations, & wth that antient confederacon & amity betwixt o^{r} superiors at home. Soe that we shall readily refer all questions & differences betwixt y^{u} & us, even from first to last, to any due hearing, examination & judgemt, either heere or in England, & by these psents we doe refer them, being well assured that his Ma^{tie}, o^{r} Sou^{r}aigne Lord Charles, King of Great Brittayne & the Parlyament of England now assembled will mayntaine their owne right & our iust lyberties against any whoe by uniust incrochemt shall wrong them or theirs, and that yo^{r} owne principles, upon a due and mature consideracon, will alsoe see & approve of the righteousness of o^{r} pceedings.

New Haven in Newe England

T. Eaton.

Aug. 12th 1646, ould stile.

Records of the United Colonies, Sept. 1646.

It is interesting to see that our representatives in the New World, when engaged in diplomatic controversy, could use emphatic language.

In May, 1645, a commission to Peter Stuyvesant was issued by the Commissioners on behalf of the General Incorporated West India Company in the United Netherlands:

To all those who shall see these presents . . . for the promotion of the affairs of the General Incorporated West India Company, not only to maintain the trade and population of the coasts of New Netherland and the places situate thereabouts, together with the islands[118] . . .

As regards the promotion and the settlement of the boundaries between the people of New Netherland and the English it is not considered necessary to proceed therewith at present, but the Director and Council are instructed to take care that the English do not encroach further on the Company's lands; in the meantime they are to try if a boundary can be determined on yonder with the aforesaid English, and the inclination thereto appearing, they are instructed to send forthwith advice thereof hither, with pertinent information after due inquiry, how much of the Company's lands the English possess. . . .

In respect to the division of boundaries between the people of New Netherland and the English, the Director hath without any advice and joint resolution, not only repaired to New England in September, 1650, but hath there, also on his own authority, so far proceeded in the matter of the boundary that he and the English mutually referred the differences thereon to four arbitrators, two of whom were chosen on each side.

The Director named on his side instead of Dutchmen, one Mr. Willet, a merchant residing at Plymouth, in New England, and one George Baxter, appointed heretofore by the Director here, Ensign over the soldiers, both of whom were Englishmen; whose decision being highly injurious to this Province, the Director declined, though repeatedly requested to make public his tenders and transactions with the English, and even though we, at the request of some select men appointed by himself, have demanded a report and explanation thereof, inasmuch as very strange re-

[118] Documents relating to the Col. Hist. of the State of New York, I, 492.

ports are abroad among the people, that the Director had sold the country to the English; he gave us for answer;—"I must give an account of my commission, and regard nothing else," etc., as appears by the statement of the deputy and myself, dated xii, April, 1651, so that we have not been able to obtain any other or further assurance and explanation of the agreement with the English, than a simple writing from New England, entitled "Translation of News from New England," being the substance of what is confirmed by daily reports, both of public and private trustworthy persons from those parts.[119]

A clear view of the relations between New York, New Haven, New England and Connecticut may be gained from the correspondence which follows.

In a letter dater New Haven, October 8th, 1647, Governor Eaton wrote to Peter Stuyvesant, Governor of New Amsterdam, that he had received certain papers from him, "neither of them written either in Lattin, as your predecessour vsed, or in English as your selfe haue formerly done," but in Low Dutch, "whereof I vnderstand little, nor would your messenger though desired interpret any thing in them, soe that in pte att least they must lye by mee, till I meete with an interpreter."

It would appear from this that Governor Eaton was something of a linguist, and could read Latin and Low Dutch, "whereof he understood little."

In the meane tyme, as formerlie wee were sensible of sundrie wrongs, & protested against y^{r} predecess^{r} Mouns^{r}. Will: Kieft, soe I hereby witness against your vnneighbourlie and iniurious course, in suerall writings which I haue seene. Without ground, you pretend title to the land in these ptes, one while from Delaware, to Connecticut Riuer, & another while yow extend y^{r} limits further, euen to Cape Cod, from whence drawing any line landward North or West, yow wholy take in, or trench

[119] *Ibid.*, p. 497, 498.

farre in to the limits of all the Vnited English Colonies, who by lycence and auntient pattent from King James, of famous memorie, since confirmed by his Maiestie that now is, first came into these ptes, & vppon due purchase from the Indians, who were the true proprietours of the land (for we found it not a vacuum) haue built, planted, & for many yeares quietlie, & without any claime or disturbance, from the Dutch or others, posessed the same.

And now latelie in a ship belonging to Newhauen, as bought by Mr. Goodyeare, yow haue sent armed men, & (without lycence, not soemuch as first acquainting any of the magistrates of this Jurisdiction with the cause or grownds thereof) ceised a shipp within our harbour, and though Will: Westerhowse, the Dutch merchant, & without our knowledge, before treated with yow, & then offered the recognition, which in a former writing to him, yow seemed to accept, yett your agent refused it, & protested hee would carrie away the ship. Whereuppon I did first protest against him, & the Generall Court considering how highlie they were considered in the premises, though they would not meddle in a controuersie which belongs not to them, much lesse defend any knowne vnrighteousnes, & though they desire to keepe peace (as farre as may bee) with all men & particularlie with theyre neighbours of the Dutch plantatio, yet they fownd it necessarie, & resolued by all iust meanes, to asist & vindicate theyre right, in Newhauens lands & harbour, & theyre jurisdiction of both, that themselues & posteritie be not (through theyre neglect) inthralled & brought vnder a forreigne gouernment, by a ceisure made in theyre harbour vppon such an vnjust claime, the court conceuing it free for them, according to the laws of God & nations, to entertaine trade brought vnto them, wheather by land or sea, without enquiring into the priviledges of forraigne companies, or examining wheather recognitio be due, or paid in another countrie, nor is propable that yourselfe, if an English ship or vessell bring necessarie prouisions to the Manhatans, will be sollicitous wheather custom be paid in England.

Wherefore, wee haue protested, and by these presents doe protest, against yow Peter Stuyvesant, Gouern^{r} of the Dutch att Manhataes, &c; for disturbing the peace betwixt the Engl: & Dutch in these ptes, which hath bynne soe long & so hapilie maintained betwixt the two nations in Europe, for obstructing & hindering those passages of justice & neighbourlie correspondencie, which yo^{r} selfe haue propownded & desired betwixt the Engl. Collonies & y^{e} Dutch plantations, by making uniust claimes

to our lands & plantations, to our hauens & riuers, and by taking a ship oute of our harbour, without our licence, by yo[r] agents & comission, & wee hereby professe that what further inconuenience may hereafter growe, yow are the cause and author of it, as we hope to cleere, & proue before our superiors in Europe.

Dated in Newhauen in New England this 8th day of Octob[r], 1647.

Theophilus Eaton.[120]

The reference to "our superiors in Europe" referred to the Dutch West India Company and the King of Holland, on the one side, and the English nation on the other.

In a subsequent letter from Governor Eaton to Governor Stuyvesant, he gives his views of the questions in dispute and of "your predecessor, Mouns. Will: Kieft." [121]

Between the English and Dutch there was a serious conflict of jurisdiction in 1647, out of which grew the Treaty of Hartford three years later. The results of the hostility between them had already provoked dissensions on the upper reaches of the Hudson River on account of lands near Fort Aurania (where Albany now is).

If, (Governor Eaton wrote), this agree with the rules of Christianitie or good neighbourhood, I doubt not but we may retaliate and when wee see cause turne the edge and point of those weapons vppon your selues. . . . In the meane tyme, the scope and tendencye of the premises doth directlie crosse and contradict your profession of peac and amitie, & will in each particular afford matter of serious consideration to the English colonies, and vnlesse things be cleered speedilie to satisfaction, yow will constreine vs either to reaurie and receiue recognition in propoertion to what wee paye, or to prohibit all comerce betwixt the English and Dutch jurisdictions in these partes; for ourselues we accompt

[120] New Haven Colon. Records, 1638–1649, Appendix. p. 508.
[121] New Haven Colon. Records, 1638–1649, Appendix. p. 514.

and with good warrant call our title to the land, riuers and streames wee posesse, an indubiate right. Wee know wee have as full libertie to trade with Dutch merchants within our harbours & to admit Dutch inhabitants into our plantacions as yow the English, in either case; yett wee readilie close with your propositions to considder, examine and issue all differences, . . .

He referred to a proposition for arbitration which had been made by Governor Stuyvesant shortly before, and indicated his approval of the arbitrators proposed by Governor Stuyvesant, namely, the Governors of the Massachusetts and Plymouth Colonies, who were "men approved for wisdom and integrity."

Nor shall I differ from yow in those circumstances of tyme and place, supposing yow will haue due respect to conueniencye, only by way of preparatio it would be considered and agreed what shall be put to referrence, wheather the title of land, riuers, streames, &c, or any pte of the forementioned tract from 40 to 48, including the Manhataes and Newhauen, or only other questions and iniuries which haue bynne formerlie or more latelie grieuous and are not yett satisfied.[122]

This letter was dated November 16th, 1649 old style.

The following letter was sent to Governor Eaton by Governor Stuyvesant:

To Mr. Eaton. Worthy S^{r},

Certaine reportes comeing to my eares that, some of my countriemen & others vsing to trade with natiues of yo^{r} ptes, doe indirectlie sell vnto the s^{d} natiues powder, gunnes & lead, & that in particular one Gouert Lockoman had done it, & withall had indeauoured to instigate the Indians there against the English, I could doe noe lesse then in discharge of my duty to God & my neighbour, but seriouslie to enquire into it, and haue vsed my best indeauour for the fineding oute the truth, it being of soe high a concernement as to arme the Indians against the Christians, vppon all occasions, & making debate & jealousies betwixt the

[122] *Ibid.*, p. 516.

two nations in these ptes, that haue soe long & happilie liued in vnion in our natiue countries. I haue therefore thought good to send our secretarie vnto yow aboute it, together with such information as I haue receiued vnder the hands of Mr. Throckemorton, Mr. Willet, & Mr. Hart, & humblie entreate yow, yow would be pleased to vse yo^{r} indeavours to the magistrates of Sowthampton & other places, that the truth may be knowne in the premises, concerning the s^{d} Gouert or any other that haue relation vnto our jurisdiction, & if proued against him or others, yow shall apparentlie find that I will not countenance any of ours in such wayes of vnrighteousnes, but cause such examplarie punishment to be inflicted vppon them, as shall deterre others from doeing or attempting the same in both respects, either in indirect trading or instigating the Indians against o^{r} Christian brethren of the English nation. . . . I haue latelie written to the Gouern^{rs} of Boston & Plimouth that if they, with yo^{r} selfe, will please to giue me a meeting att Connecticut atf any tyme you shall appoint, this summer, I doubt but through the blessing of God wee shall giue that mutuall satisfaction to one another, in euery respect, that past differences may be forgot, future preuented, & a happie union betwixt our nations in these ptes firmelie knit.[123]

Several postponements of the conference ensued, and finally on April 11th, 1649 old style, Governor Eaton wrote to Governor Stuyvesant arranging for a meeting of the plenipotentiaries from both peoples, and expressing himself as follows:

Honoured S^{r},

I long since acquainted the rest of the comiss^{rs} for the vnited English collonies with yo^{r} answers to ( ) but the winter season hath so shut up all passages that till now of late could not retourne theire thoughts. In theyre names I am now desired to certifie that your answere in diuerse particular be not to theire satisfaction, yett the (y are) not only willing but desirous of a meeting, that all differences and grieuances may be heard, considered & satisfied, accord(ing) to righteousnes, & a iust wholesome peace, by all due meanes stled & confirmed, betwixt these

[123] New Haven Colon. Records, 1638–1649, Appendix. G.

English collonies & the neighbour plantacions vnder the Dutch gouerm^t, only whereas yow desired the presence and help of the gouernours of the Massachusets and Plimmouth, to weigh and arbitrate &c; (they being both aged & vnfit for long land journeys, the comissioners (in reference to them) thought Boston would be the fittest place, & for the tyme they are willing to the vtmost, to suit your occasions, and doe therefore consent that the meting be the last weeke in June, or first week in July, according to the English accompt, as yourselfe shall please to appoint, declaring yo^r mynde in due season, that I may certifie the comissioners thereof; sooner it cannot bee, in referrence to other publique occasions of the collonies, & they would not vnnecessarilie deferr it as hoping (through Gods blessing) wee may all reap the comfortables fruites of such a meeting & treaty, yett if the last weeke in July will better answere yo^r occasions, vppon notice I conceiue the comission^rs will agree & order according. In the meane tyme the comission^rs desire me to informe yow that they cannot submit to the taxes, recognitions & other burdens imposed att the Manhataes; if they be not speedilie taken of, yow may not blame them if they prouide due remedy against them; this is all I haue from them to ppound, but since I hearde from the comission^rs by other conueiance I haue rec^d informatio of the death of our worthy & much honoured friend Mr. Jo: Winthrop, late gouern^r of the Massachusets collonye; he departed this lyfe the 26th of March. I am assured he is a rich gainer by his remoue, the losse is ours, and accordinglie I beleue his death will be lamented through all the collonies. In referrence to this vnexpected & afflicting prouidence, I desire to vnderstand yo^r mynde, whom you will choose in his roome to compose & arbitrate differences, or how the meeting may be carried on to answere our ioynt aymes & hopes, thus with my due respects, I rest,

Yo^rs in all
Theo: Eaton.

Newhauen in New Engl: the 11th of Ap:
1649, st: veter.[124]

On September 12, 1650, Governor Stuyvesant came to Hartford by appointment to meet the Commissioners for the United Colonies of New England. He had

[124] New Haven Colon. Records, 1638–1649, Appendix. S.

been often invited to attend their meetings with a view to the accommodation of all difficulties subsisting between the Dutch and the English, and to settle a general boundary line between the Dutch and English plantations by a joint writing to their superiors in England and Holland or by the decision of agents mutually chosen and empowered for that purpose.

Several days were spent in presenting the claims of both parties. It was then agreed that the Commissioners should nominate two and the Dutch two, as arbitrators to hear and compose all differences, and to make provisional boundaries in all places where their respective limits were in dispute. The Commissioners chose Mr. Bradstreet of Massachusetts and Mr. Prince of Plymouth. Governor Stuyvesant named Thomas Willet and George Baxter. The four arbitrators, after a full hearing of the parties, came to the following determination, which they drew up in the form of an agreement.

Articles of an agreement made and concluded at Hartford, upon Connecticut river, September 19th, 1650, betwixt the delegates of the honored commissioners of the United English colonies, and the delegates of Peter Stuyvesant, governor general of New Netherlands.

I. Upon a serious consideration of the differences and grievances propounded by the two English colonies of Connecticut and New-Haven, and the answer made by the Dutch governor, Peter Stuyvesant, Esquire, according to the trust and power committed to us, as arbitrators and delegates betwixt the said parties: We find that most of the offences or grievances were things done in the time, or by the order and command of Mons. Kieft, the former governor, and that the present honorable governor is not prepared to make answer to them; we therefore think meet to respite the full consideration and judgment concerning them, till the present governor may acquaint the H. M. States and West-

India company with the particulars, that so due reparation may accordingly be made.

II. The commissioners, for New-Haven, complained of several high and hostile injuries which they, and others of that jurisdiction, have received from and by order of the aforesaid Mons. Kieft, in Delaware Bay and river, and in their return thence, as by their former propositions and complaints may more fully appear; and besides the English right, claimed by patent, presented and showed several purchases they have made, on both sides the river and bay of Delaware, of several large tracts of land unto, and somewhat above the Dutch house or fort there, with the consideration given to the said sachems and their companies for the same, acknowledged and cleared by the hands of the Indians, who they affirmed were the true proprietors; and testified by many witnesses. They also affirmed, that, according to the best of their apprehensions, they have sustained £1000 damage there, partly by the Swedish governor, but chiefly by order from Mons. Kieft. And therefore required due satisfaction, and a peaceable posession of the aforesaid lands, to enjoy and improve according to their just rights. The Dutch governor, by way of answer, affirmed and insisted on the title and right to Delaware, or the south river, as they call it, and to the lands there, as belonging to the H. M. States and West-India company; and professed he must protest against any other claim; but is not provided to make any such proof, as in such a treaty might be expected, nor had he commission to treat or conclude any thing therein. Upon consideration whereof, we, the said arbitrators or delegates, wanting sufficient light to issue or determine any thing in the premises, are necessitated to leave both parties *in statu quo prius,* to plead and improve their just interest, at Delaware, for planting or trading, as they shall see cause; only we desire, that all proceedings there, as in other places, may be carried on in love and peace, till the right may be further considered and justly issued, either in Europe or here, by the two states of England and Holland.

III. Concerning the seizing of Mr. Westerhouse's ship and goods, about three years since, in New-Haven harbour, upon a claim to the place, the honored governor Peter Stuyvesant, Esquire, professed, that what passed in writing that way was through error of his secretary, his intent not being to lay any claim to the place, and with all affirming, that he had orders to seize any Dutch ship, or vessel, in any of the English colonies or harbours,

which should trade there without express license or commission. We therefore think it meet, that the commissioners of New-Haven accept and acquiesce in this answer.

Concerning the bounds and limits betwixt the English United Colonies, and the Dutch province of New-Netherlands, we agree as followeth.

I. That upon Long-Island, a line run from the westermost part of Oyster-Bay, and so a straight and direct line to the sea, shall be the bounds betwixt the English and the Dutch there, the easterly part to belong to the English, and the westermost to the Dutch.

II. The bounds upon the main to begin at the west side of Greenwich Bay, being about four miles from Stamford, and so to run a northerly line, twenty miles up into the country, and after, as it shall be agreed, by the two governments of the Dutch and New-Haven, provided the said line come not within ten miles of Hudson's river. And it is agreed that the Dutch shall not, at any time hereafter, build any house or habitation within six miles of the said line; the inhabitants of Greenwich to remain (till further consideration thereof be had) under the government of the Dutch.

III. The Dutch shall hold and enjoy all the lands in Hartford, that they are actually possessed of, known and set out by certain bounds, and all the remainder of the said land, on both sides of Conneccut river, to be and remain to the English there.

And it is agreed, that the aforesaid bounds and limits, both upon the Island and main, shall be observed and kept inviolable, both by the English of the United colonies, and all the Dutch nation, without any encroachment or molestation, until a full and final determination be agreed upon, in Europe, by the mutual consent of the two states of England and Holland.

And in testimony of our joint consent to the several foregoing conclusions, we have hereunto set our hands this 19th day of September, Anno Domini 1650.

Simon Bradstreet.
Thomas Prince.
Thomas Willet.
George Baxter.[125]

The Dutch Governor promised also, and his agents Messrs. Willet and Baxter engaged for him that

[125] Trumbull's Hist. of Conn. p. 197.

Greenwich should be put under the government of New Haven Colony to which it originally belonged. Governor Stuyvesant also informed the Commissioners that he had orders from Holland to maintain peace and good neighborhood with the English in America.

A full and apparently correct narrative of the proceedings leading up to the Treaty of Hartford of February 16, 1652, was made the subject of record in the Dutch Foreign Office, and reads as follows:

Memoir on the Boundaries of New Netherland. By Adriaen van der Donck.

Memoir respecting the ancient Boundaries of New Netherland, as first occupied in the year 1609; the usurpations, from time to time, of the English, and, finally, what has been ceded by Director Stuyvesant to the English, subject to their High Mightinesses' ratification, as indicated in letters and memoirs from New Netherland, drawn up pursuant to their High Mightinesses' last resolution, dated 16th February, 1652.

Albeit the ancient original Boundaries are very fully treated of at page 11 to page 22 of the Great Remonstrance made by the people of New Netherland and presented in October, 1649, by their Delegates to their High Mightinesses, and afterwards published in print, to which their Noble Mightinesses are respectfully referred; it will be highly necessary briefly to review and explain what has occurred since the Remonstrance has been prepared.

That paper relates that New Netherland was casually discovered in the year 1609; that the Netherlanders were the first finders and occupiers thereof; that the English came to those parts, for the first time, some years after due possession had been taken thereof by the Dutch; that the former had been protested against, from time to time, and that they had continued to advance by force, and not of right, &c.

But in order to be more precise, we shall say a word generally of the progress of the affair. 'Tis, then, thus:— The English remarking from time to time more closely and particularly that the lands within the territory of New Netherland were much better and more fertile than those in New England; and perceiving, at the same time, that they lay mostly vacant and were taken

possession of merely by setting up arms and a fort here and there, took occasion in consequence to creep gradually nearer to us, and first to come around Staten hook or Cape Cod, through Rhode Island, afterwards to occupy the Fresh river, and finally the Red Mountain or New Haven, with the adjacent places and villages; but they were never peaceable possessors, and it was always admitted that the boundary must be determined, and that this must be by superior authority; as is to be seen in the last instruction given conjointly to the Director and Council.

Now, the case is, that the Director went to the General Court of New England on the 17th September, in the year 1650, and treated there with deputies from the Provinces respecting the boundary, and finally the arbitrators mutually made and came to a decision and award, subject to their High Mightinesses' ratification; but we have no precise copy of it, as it still remains with the Board of Directors.

All the arbitrators were English and friends of the English; and in this affair they pulled the wool over the Director's eyes; for, according to our information from New Netherland, he hath ceded to the English as far as Greenwich, inclusive, on the Main, together with a portion of Long Island. Now, New Holland, or Staten hook, called by the English Cape Cod, and Greenwich are sixty leagues apart, and include many fine bays, kills, rivers and islands, namely Stamfort, Straefford, the Red Mountain, Totolet, Gilfort, Kieft's hoeck and the beautiful Fresh river, where full fifty Colonies or more might be planted; also the river Pequatoes and divers fine islands, bays, kills and places; if the tenor of the Exemption be adhered to, which prescribes four leagues along a navigable creek, bay or river, and so far landward in as circumstances admit, it can be seen by the map that the ceeded territory will admit, not of fifty, but of a much greater number of Colonies. Long Island, which is included, hath full two hundred leagues of navigable coast, not in one continuous stretch, but calculating the bays, rivers and shores, as can easily be demonstrated to your Mightinesses on the map. 'Tis, indeed, true, that this country was occupied by the English in part, but not the whole of it: the whole of it, then, ought not to be theirs; not that we would deprive people of what belongs to them, but the sovereignty ought to remain with this State; at least of the whole of Long Island, and so northerly along Sequins river. We should thus, retain something, and also leave something to the English; for 'tis full thirty leagues from the latter river unto

Tablet in Memorial Hall, State Library, showing the Evolution of the Seal of Connecticut, and Thomas Hooker's Statement for Representative Government.

Staten hook. Were it so arranged, New Netherland could be thus bounded, and the trade remain as it is; otherwise the trade will suffer great damage, because the English will retain all the Wampum manufacturers to themselves, and we shall be obliged to eat oats out of English hands. The country will, likewise, always lie open, exposed and common to the neighbors.

This is briefly what is to be observed hereupon. I shall now annex hereunto the extracts and news in order that you High Mightinesses may see how the work has been managed.

Extract from the copy of the Journal of the Select men in New Netherland, sent to Van der Donck.

1650. 17th September. The Director has gone to the North to negotiate with the English, according to his written communication to the Council, which was not followed by any resolution.

12th October. The Director, who was entertained with great pomp in New England, returned home last night.

13th ditto. The Director and Council met, and the Vice-Director requested a report of what had been done and transacted by the Director General in New England. His Honor postponed it until the arrival of Carel Verbruggen, when he should have it all translated from the English. He also said that nothing special had passed or occurred.

November 3d. Oleff Stevens conversing with George Baxter respecting the Treaty between the Director and the English, understood from him, Baxter, that the Director hath surrendered Greenwich to the English, and the differences between the Director and the English were arranged by him and three other selected arbitrators.

December 14th. Schelluyne conversing with Westerhuysen's wife regarding the confiscation of their ship the *Sinte Beninio,* or the *Nieuw Swol,* she said: 'Tis easy to see what the result will be. My husband has a writing from the English Commissioners whereby Director Stuyvesant acknowledges that he never had, nor has at present, any pretensions to New Haven.

14th ditto. The Director and Council being assembled, the Vice-Director again demanded to be informed respecting the negotiations of the Director with the English; who gave for answer that nothing special was transacted and that Mr. Schaep of Amsterdam who was going Ambassador to England, would treat there, by orders of the Lords Majors, touching the boundary between New England and New Netherland.

Extract of the letter written by the Select men to Van der Donck, dated 26th November, 1650.

His Honor has been to the North with the English and there entered i to a Treaty respecting the Boundary, &c., but keeps everything concealed from us and from his Council. We fear the news from New-England, (a translation whereof is annexed,) which was secretly brought and thrown into a certain house here, is too true, inasmuch as 'tis confirmed by daily rumors. We at least hope and request that you will be particular in calling the attention of their High Mightinesses our Sovereigns thereto, whenever the Treaty between the Director and the English comes up for ratification.

Translation of News from New England, 1650.

The Governor of New Netherland has been received and treated like a Prince wherever he passed; for which he expressed himself very grateful. On arriving at the Court of the New England Commissions, he meant that the matters in dispute should be discussed and debated there; wherefore his Honor submitted divers charges and grievances. He particularly asserted the Boundary to extend from Cape Cod to the Fresh River and so forth, and dwelt on the usurpation of territory, lands &c.; but they answered him that they had not come to question or to be questioned; excusing themselves and declining his premises as they could not admit of such pretensions which, as far as they were concerned, were mere idle talk without proof. They finally drew and got him so far along by a sweet and right subtile line, in order, howbeit, to reach the matter itself, that they have mutually referred their differences about boundaries, &c., to four Arbitrators. The English chose their own people, and instead of Dutchmen the Governor of New Netherland named Mr. Willet and George Baxter, two Englishmen. The matter remaining under their consideration, and the English meanwhile, continuing to entertain and treat him like a Prince, knowing that he was pleased therewith, the decision of the Arbitrators finally followed, to wit: not only were the aforesaid Governor's pretensions declared null and of no avail, but the English limits are four leagues West of Greenwich, and are to include Greenwich; the remainder is to constitute New Netherland. Thus East of the Manhattans, the limits of New Netherland will be about four leagues, and in

addition to that, from Oysterbay east on Long Island, is to be New England, and west, New Netherland. The English lay claim to the South river against which the Dutch Governor warmly protested, but the English have answered that they should persist in, and retain possession of what they claim. In fine, it looks as if everything would shortly be English, for experience shows that the boundary line four leagues west of Greenwich encroaches as it goes into the interior of the country and that the English will in a short time be in the neighborhood of Fort Orange and the trade. The Dutch Governor is absolutely stripped of the Fresh river and New Haven, especially and particularly of New Haven, on which he declares he has not, nor ever had, and pretensions. And then his former various protests and menaces were read to him, and among the rest, his letter that the blood should be on their own heads, which he denied, saying: that such was an error of his Secretary. The English will not trouble him, at present, respecting the capture of Westenhuysen's ship which lay at New Haven and was confiscated by the Dutch Governor, as he has requested, and obtained from the English Commissioners, permission to pass and repass. But time will tell what circumstances will bring about on the next opportunity, for the Commissioners have given Westenhuysen a writing under their hand that the Dutch Governor has not, and never had any claim to New Haven. Moreover, at the meeting of the Colonies a firm alliance was entered into between both Nations, the English and the Dutch, to the effect that they shall help to defend each other, as good neighbors, against all enemies, and mutually entertain good correspondence and trade, the Indian trade excepted, which remains unchanged; also, the Dutch Governor shall be at liberty to assist at the meetings of the Commissioners. The English declare that they have nothing to do with Rhode Island, therefore the Governor may seek satisfaction as best he can for the prize permitted there. When the four Arbitrators above-mentioned had made their report, and it was brought to the ears of the Governor, he made a great complaint against his two chosen agents, crying out: I've been betrayed; I've been betrayed! Which hearing, some of the English who were waiting outside, supposed that he had run mad, and were disposed to go and fetch people to tie him. It seems he never imagined that such hard pills would be given him to digest. New England is thoroughly united with the Dutch Governor to her satisfaction and is well content with him; speaks of him in terms of great praise, especially be-

cause he is so liberal and hath allowed himself to be entrapped by her courtesy and hath conceded Greenwich. Valid, perfect copies, and verification of the whole have been made and the Governor with his two Commissioners hath subscribed the entire negotiation. But as regards the surrender of Greenwich and the other limits concluded upon, he hath voted and signed as Governor, subject, however, to the approbation of his Council, under promise to persuade them thereunto as much as possible.

Finally, 'tis resolved to send the aforesaid Treaty to the West India Company, the States and Parliament, in order that it may be ratified as early as possible.[126]

The Treaty of Hartford is worthy of the special attention of the student of American diplomacy, as it was the first modern effort to settle a controversy between different nations by a formal agreement through arbitration. Holland has the credit of initiating such a method of terminating international disputes.

This treaty provided, among other things, that the dividing line between the English and the Dutch "upon the main" should be fixed to begin on the west side of Greenwich Bay, being about four miles from Stamford.

Holland was a sovereign, and the United Colonies of New England claimed to be. The Commissioners agreed that the controvery should be decided and the boundary made certain by the award, and Stuyvesant was expected to be able to bring the controversies of the jurisdiction to a close, in consequence of some observations which he had made which indicated his inclinations.

From a very early date proceedings for arbitration were favored in Connecticut. The following is an act concerning arbitration taken from the Revised Statutes, of 1784.

[126] Documents relating to the Colonial History of the State of New York, i. 457–461.

An Act for the more easy and effectually finishing of Controversies by Arbitration.

Be it enacted by the Governor, Council and Representatives, in General Court assembled, and by the Authority of the same, That all Merchants and others desiring to end any Controversy (for which they have no other Remedy but a personal Action, or Suit in Equity) by Arbitration, may agree that their Submission of the Suit to the Award or Umpirage of any Persons, shall be made a Rule of any of the Superior or County Courts, which the Parties shall choose, and may insert such their Agreement in their Submission, of the Condition of the Bond, or Promise; and on producing an Affidavit of such Agreement, and upon reading, and filing the same in the Court so chosen, the same may be entered of Record in such Court, and a Rule of Court shall be thereupon made that the parties shall submit to, and finally be concluded by such Arbitration, or Umpirage, and on the Award of such Arbitrators being returned into the Court so chosen, in Case of Disobedience of either Parties, the said Court may grant Execution to levy, and collect the Sum awarded by said Arbitrators, with Cost.

And be it further enacted by the Authority aforesaid, That if any Merchant, or other Person desiring to end any Controversy, as aforesaid, by Arbitration, shall personally appear before any Superior, or County Court, and acknowledge before such Court, that they have mutually agreed to refer all their Matters of Difference, or any particular Thing to the Arbitrement of certain Persons by them agreed on, naming the Persons so chosen, and desiring the same may be made a Rule of Court; the same may be entered of Record; And a Rule of Court shall be thereupon made that the Parties shall submit to, and finally be concluded by such Arbitration, or Umpirage, and on the Award of such Arbitrators being returned into the Court so chosen, in Case of Disobedience of either Party thereto, the said Court may grant Execution in due form of Law, and levy and collect the Sum, so awarded, to be paid with Cost.

And be it further enacted by the Authority aforesaid, That when any personal Action shall be commenced, the Parties in such Action desiring to refer the same, on each Party's choosing a Man, the Court may appoint a Third, whose award being by said Referrees, or any two of them made, and returned into such Court, and by them accepted, shall be a final End of such Con-

troversy, and the said Court shall grant Execution thereon according to the Award of such Referrees, with Cost.[127]

The statutory proceeding of arbitration was in this case certainly not made a rule of court, and it is doubtful if it was intended to apply to the English colonies. The Dutch Governor went as far as he could in proposing an arbitration instead of a suit. It would seem that a sovereign could not be compelled by judicial process in favor of an individual to give him any relief in the absence of a statute, plain and explicit. The Governor therefore was compelled to resort to a treaty, and if one did not exist competent to decide the question, he must seek to find a new tribunal adequate to the exigency.

The towns of Lyme and New London had, in the seventeenth century, a dispute as to the boundary line between them. President Dwight of Yale College gives the following account of the means taken to determine the controversy:

From Mehantic river, four miles westward, a tract extending from the Sound to the northern boundary of Lyme and New London was reserved for the Indians, when those townships were incorporated. Some time afterward, the inhabitants of both united in a petition to the Legislature to include these lands within their limits. The Legislature granted the petition, without determining upon the dividing line. New London proposed to take three miles in width, and leave one to Lyme. Lyme made a similar proposal to New London. The distance to the seat of government was fifty miles. The journey lay through a wilderness inhabited by savages, and crossed by numerous streams, over which no bridges were erected. The land, though now of considerable value, was then regarded as a trifling object. The expense of appointing agents to manage the cause before the Legislature, was considerable; and the hazard of the journey not small. In this situation the inhabitants of both townships agreed

[127] Acts and Laws of the State of Connecticut, 1784, p. 8.

to settle their respective titles to the land in controversy, by a combat between two champions to be chosen by each for that purpose. New London selected two men by the names of Picket and Latimer. Lyme committed its cause to two others, named Griswold and Ely. On a day mutually appointed, the champions appeared in the field; and fought with their fists, till victory declared in favor of each of the Lyme combatants. Lyme then quietly took possession of the controverted tract; and has held it undisputed, to the present day.[128]

This reversion to the appeal by battle of our English forefathers under the common law has not, it is believed, been repeated.

* * * * *

Early in 1637 the General Court of Massachusetts Bay authorized the Council "to treat with our friends among the Indians and to proceed with them in the said treaty as occasion shall require." Mr. Haine and Mr. Ludlow were sent "to the mouth of the River of Connecticut to conclude with our friends of the Bay either to join with our forces in prosecuting our design against our enemies or if they see cause, by advice to enterprise common action according to the force we have, and to parle with the Bay about our settlement down in the Pequot country."

There had been several interviews between representatives of the New England Colonies prior to this time to talk over the choice of a final home for the English colonies. In the fall of that year Rev. Thomas Hooker of Hartford attended an ecclesiastical synod at Newtown and was one of the moderators. He had come on some weeks before, to Boston, where Richard Ludlow and William Pynchon of Springfield had also come with

[128] Dwight's Travels, Vol. 2; Barber, Connecticut Historical Collections, 333.

a view of treating for a confederation between the two jurisdictions of Massachusetts and Connecticut. Some of the magistrates of Massachusetts prepared a draft for articles of confederation, and this was discussed and an agreement reached that it should be referred for ratification to the proper authorities in each colony, namely, the general courts of Massachusetts Bay and "the magistrates and people in Connecticut." Overtures were also ordered to be made to bring into the confederation New Plymouth and New Haven.

The proposition to remove the settlement to the Pequot and Narragansett Colonies called for an examination of the title held by Massachusetts to this new territory. She claimed title by conquest; Connecticut claimed title by patent, purchase and conquest. Negotiations for a confederation between the New England Colonies proceeded until late in 1643, when Articles of Confederation between the United Colonies of New England were fully ratified by parties to them. Colonel Fenwick was made in July, 1643, one of the two Connecticut Commissioners to sit in the congress of the confederacy.

The preamble to the Articles of Confederation paints in vivid colors the difficulties and dangers the settlers encountered, and inevitably would encounter. It is mentioned particularly, "how by reason of our distance from England, our dear native country, we are hindered from seeking advice or . . . protection . . . which we might otherwise well expect."

The Connecticut planters differed from the Massachusetts planters at first over the terms of their proposed confederation. Governor Winthrop gives the following account of their coming to an issue:

The differences between us and those of Connecticut were divers; but the ground of all was their shyness of coming under our government, which, though we never intended to make them subordinate to us, yet they were very jealous, and therefore, in the articles of confederation, which we propounded to them, and whereby order was taken, that all differences which might fall out, should be ended by a way of peace, and never come to a necessity of danger and force—they did so alter the chief article, as all would come to nothing. For whereas the chief article was, that, upon any matter of difference, two, three or more commissioners of every of the confederate colonies should assemble, and have absolute power (the greater number of them) to determine the matter—they would have them only to meet, and if they could agree, so; if not, then to report to their several colonies, and to return with their advice, and so to go on till the matter might be agreed, which beside it would have been infinitely tedious, and extreme chargeable, it would never have attained the end, for it was very unlikely that all in the churches in all the plantations would ever have accorded upon the same.[129]

Winthrop wished the commissioners of the confederacy to have the absolute power of decision, in regard to the passage of the laws. Hooker, on the contrary, wished the General Court of each colony to have this power. One wished to have absolute power delegated to the confederacy, the other wished this power reserved to each colony, and to have Connecticut in the last resort governed by its local laws.[130]

By the Articles of Confederation of the United Colonies, under date of May 19, 1643, the four New England Colonies constituted themselves a confederacy by the following original agreement:

Articles of Confederation between the Plantacons under the Gouernment of the Massachusetts, the plantacons vnder the Gouernment of New-Plymouth, the Plantacons vnder the Gouern-

[129] New England Hist. and Gen. Register, Vol. 24, 39.
[130] *Ibid.* 40.

ment of Connectacutt, and the Gouernment of New-Haven with the Plantacons in combination therewith.

Whereas wee all came into these parts of America with one and the same end and ayme namely to advaunce the Kingdome of our Lord Jesus Christ and to enjoy the liberties of the Gospell in puritie with peace; And whereas in our settleinge (by a wise Providence of God) we are further dispersed vpon the Sea Coasts and Riuers than was at first intended, so that we cannot according to our desire with convenience communicate in one Gouernment and Jurisdiccon; And whereas we live encompassed with people of seuevall Nations and strang languages which hereafter may proue injurious to vs, or our posteritie. And for asmuch as the Natiues have formerly committed sondry insolences and outrages vpon seueral Plantacons of the English and have of late combined thelselues against vs; And seing by reason of those sad Distraccons in England which they have heard of, and by which they know we are hindred from that humble way of seeking advice, or reapeing those comfortable fruits of protection which at other times we might well expecte; Wee therefore dow conceiye it our bounden Dutye without delay to enter into a present Consotiation amongst ourselves for mutuall help and strength in all our future concernements: That as in Nation and Religion so in other Respects we bee and continue one according to the tenor and true meaneing of the ensuing Articles.

I. Wherefore it is fully agreed and concluded, by and between the parties, or jurisdictions above named, and they doe joyntly and severally by these presents, agree and conclude, That they all be, and henceforth be called by the name of, The United Colonies of New England.

II. The said United Colonies, for themselves and their posterities, doe joyntly and severally hereby enter into a firm and perpetual league of friendship and amity, for offence and defence, mutuall advice and succour, upon all just occasions, both for preserving and propagating the truth and liberties of the Gospel, and for their own mutuall safety and welfare.

III. It is further agreed, that the plantations which at present are, or hereafter shall be, settled within the limits of the Massachusets, shall be forever under the government of the Massachusets; and shall have peculiar jurisdiction amongst themselves, as an intire body; and that Plimouth, Connecticut, and New Haven, shall teach of them, in all respects, have the peculiar jurisdiction and government within their limits. And in reference to the

plantations which already are settled, or shall hereafter be erected, and shall settle within any of their limits respectively, provided that no other jurisdiction shall hereafter be taken in, as a distinct head, or member of this Confederation; nor shall any other either plantation or jurisdiction, in present being, and not already in combination, or under the jurisdiction of any of these Confederates, be received by any of them; nor shall any two of these confederates, joyn in one jurisdiction, without consent of the rest; which consent to be interpreted as in the sixt ensuing Article is expressed.

IV. It is also by these confederates agreed, That the charge of all just wars, whether offensive or defensive, upon what part or member of this Confederation soever they fall, shall both in men, provisions, and all other disbursement, be borne by all the parts of this Confederation, in different proportions, according to their different abilities, in manner following, namely; That the commissioners for each jurisdiction from time to time, as there shall be occasion, bring a true account and number of all the males in each plantation, or in any way belonging to, or under their severall jurisdictions, of what quality or condition soever they be, from sixteen years old, to threescore, being inhabitants there. And that according to the different numbers, which from time to time shall be found in each jurisdiction, upon a true and just account; the service of men, and all charges of the war be borne by the poll: Each jurisdiction, or plantation, being left to their own just course, and custome, of rating themselves, though the Confederation take no notice of any such privilege. And that, according to the different charge of each jurisdiction, and plantation, the whole advantage of the war (if it please God so to bless their endeavours), whether it be in lands, goods, or persons, shall be proportionally divided among the said Confederates.

V. It is further agreed, That if any of these jurisdictions, or any plantation under, or in combination with them, be invaded by any enemy whatsoever, upon notice, and upon request of any three magistrates of that jurisdiction so invaded; the rest of the confederates, without any further meeting or expostulation, shall forthwith send ayde to the confederate in danger, but in different proportion, namely, Massachusets one hundred men sufficiently armed and provided for such a service, and journey; And each of the rest five and forty men, so armed and provided, or any lesse number, if lesse be required, according to the proportion. But if such a confederate may be supplyed by the nect confed-

erate, not exceeding the number hereby agreed, they may crave help there, and seek no further for the present. The charge to be borne as in this Article is expressed. And at their return to be victualled and supplied with powder and shot (if there be need) for their journey, by that jurisdiction which imployed, or sent them. But none of the jurisdictions to exceed these numbers, till by a meeting of the commissioners for this confederation, a greater ayde appear necessary. And this proportion to continue, till upon knowledge of the numbers in each jurisdiction, which shall be brought to the next meeting some other proportion be ordered. But in any such case of sending men for present ayde, whether before or after such order or alteration; it is agreed that at the meeting of the commissioners for this confederation, the cause of such war, or invasion, be duly considered; and if it appear that the fault lay in the party so invaded, that then, that jurisdiction, or plantation, make just satisfaction, both to the invaders, whom they have injured, and bear all the charges of the war themselves, without requiring any allowance from the rest of the confederated towards the same.

And further, if any jurisdiction see any danger of an invasion approaching, and there be time for a meeting; that in such case, three magistrates of that jurisdiction may summon a meeting, at such convenient place, as themselves shall think meet, to consider and provide against the threatened danger. Provided, when they are met, they may remove to what place they please, only while any of these four confederates, have but three magistrates in their jurisdiction, a request or summons, from any two of them shall be accounted of equall force, with the third mentioned in both the clauses of this Article, till there be an increase of magistrates there.

VI. It is also agreed, That for the managing and concluding of all affairs proper to, and concerning, the whole confederation, two commissioners shall be chosen by and out of the four jurisdictions, namely, two for the Massachusets, two for Plimouth, two for Connecticut, and two for New-Haven, being all in church fellowship with us, which shall bring full power from their severall generall courts respectively, to hear, examine, weigh, and determine, all affairs of war, or peace, leagues, aydes, charges, and numbers of men of war, division of spoyles; or whatever is gotten by conquest; receiving of more confederates, or plantations, into combination with any of these confederates; and all things of like nature, which are the proper concomitants, or consequences

of such a confederation; for amity, offence, and defence, not intermedling with the government of any of the jurisdictions, which by the third Article is prescribed entirely to themselves. But if these eight commissioners, when they meet, shall not all agree, yet it is concluded, that any six of the eight agreeing, shall have power to settle and determine the businesse in question. But if six doe not agree, then such propositions, with their reasons, so far as they have been debated, be sent and referred to the foure generall courts, viz: the Massachusets, Plimouth, Connecticut and New-Haven. And if at all the said generall courts the businesse so referred, be concluded, then to be prosecuted by the confederates, and all their members.

It is further agreed, That these eight commissioners shall meet once every year, besides extraordinary meetings, according to the fifth Article, to consider, treat, and conclude of all affaires belonging to this confederation, which meeting shall ever be the first Thursday in September. And that the next meeting after the date of these presents, which shall be accounted the second meeting, shall be at Boston in the Massachusets, the third at Hartford, the fourth at New-Haven, the fifth at Plimouth, the sixth and seventh at Boston, and then Hartford, New-Haven, and Plimouth, and so in course successively. If, in the mean time, some middle place be not found out, and agreed on, which may be commodious for all the jurisdictions.

VII. It is further agreed, That at each meeting of these eight commissioners, whether ordinary or extraordinary; they all, or any six of them agreeing as before, may choose a president out of themselves, whose office and work shall be, to take care, and direct for order, and a comely carrying on of all proceedings in the present meeting. But he shall be invested with no such power or respect, as by which he shall hinder the propounding or progresse of any businesse, or any way cast the scales, otherwise than in the precedent Article is agreed.

VIII. It is also agreed, That the commissioners for this confederation, hereafter at their meetings, whether ordinary or extraordinary, as they may have commission or opportunity, doe endeavor to frame and establish agreements and orders in generall cases of a civil nature, wherein all the plantations are interested, for preserving peace amongst themselves, and preventing (as much as may be) all occasions of war, or differences with others, as about the free and speedy passage of justice in each jurisdiction, to all the confederates equally as to their own; receiving

those that remove from one plantation to another, without due certificates; how all the jurisdictions may carry it towards the Indians, that they neither grow insolent nor be injured without due satisfaction, least war break in upon the confederates through such miscarriages.

It is also agreed, That if any servant run away from his master, into any other of these confederated jurisdictions, that in such case, upon the certificate of one of the magistrates in the jurisdiction, out of which the said servant fled, or upon other due proof, the said servant shall be delivered either to his master, or any other that pursues, and brings such certificate or proof. And that upon the escape of any prisoner whatsoever, or fugitive, for any criminall cause; whether breaking prison, or getting from the officers, or otherwise escaping; upon the certificate of two magistrates of the jurisdiction out of which the escape is made, that he was a prisoner, or such an offender at the time of the escape; The magistrates, or some of them of that jurisdiction, where for the present the said prisoner or fugitive abideth, shall forthwith grant such a warrant, as the case will bear, for the apprehending any such person, and the delivery of him into the hand of the officer, or other person who pursueth him. And if help be required for the safe returning of any such offender, it shall be granted unto him that craves the same, he paying the charges thereof.

IX. And for that the justest wars may be of dangerous consequence, especially to the smaller plantations in these United Colonies: It is agreed that neither the Massachusets, Plimouth, Connecticut, nor New Haven, nor any of the members of any of them, shall at any time hereafter, begin, undertake, or engage themselves, or this confederation, or any part thereof, on any war whatsoever (sudden exigents with the necessary consequences thereof excepted, which are also to be moderated, as much as the case will permit), without the consent or agreement of the forenamed commissioners, or at least six of them, as in the sixt Article is provided. And that no charge be required of any of the confederates in case of a defensive war, till the said commissioners have met, and approved the justice of the war, and have agreed upon the sum of money to be levied; which sum is then to be paid by the several confederates, in proportion, according to the fourth Article.

X. That in extraordinary occasions, when meetings are summoned by three magistrates of any jurisdiction, or two as in the

fifth Article, if any of the commissioners come not, due warning being given or sent, it is agreed, that foure of the commissioners shall have power to direct a war which cannot be delayed, and to send for due proportions of men, out of each jurisdiction, as well as six might doe, if all met, but not less than six shall determine the justice of the war, or allow the demands, or bills of charges, or cause any levies to be made for the same.

XI. It is further agreed, that if any of the confederates shall hereafter break any of these present Articles, or be any other way injurious to any one of the other jurisdictions, such breach of agreement, or injury, shall be duly considered, and ordered by the commissioners for the other jurisdictions, that both peace and this present confederation, may be entirely preserved without violation.

Lastly this perpetual confederation and all articles and agreements thereof, being read and seriously considered, both by the generall court for the Massachusets, and by the commissioners for Plimouth, Connecticut, and New Haven, were presently and fully allowed and confirmed by three of the forenamed confederates, namely, the Massachusets, Connecticut, and New Haven: In testimony whereof, the generall court of the Massachusets, by their secretary; and the commissioners for Connecticut and New Haven, subscribed them the 19 day of the third month, commonly called May, Anno Domini 1643.

Only the commissioners from Plimouth, having brought no commission to conclude, desired respite to advise with their generall court, which was granted; and at the second meeting of the Commissioners for the Confederation, held at Boston, in September following, the commissioners for the jurisdiction of Plimouth, delivered in an Order of their generall court, dated the 29 of August, 1649, by which it appeared that these Articles of Confederation were read, approved, and confirmed, by the said court, and all their townships, and their commissioners authorized to ratifie them by their subscriptions, which they accordingly did, the 7 day of September, 1643.[131]

The United Colonies of New England pursuant to the foregoing agreement, promptly organized as an active confederacy. Each colony was unusually careful to choose its best men as Commissioners and a good deal

[131] Sherman, The Governmental Hist. of the U. S. of America, 866–874.

of useful work was done, year after year. In 1672 the Articles were revised and re-executed and the subscription clause made to conform to the existing circumstances, by adding a final Article as follows:

15. Finally, whereas in ye former articles agreed upon May 29, 1643, for the confederation of the United Colonies above named, New Haven is therein mentioned, and was owned as a distinct confederate, and is by these included and considered as one with Connecticott; ye above'sd union shal be always interpreted as by their own concession and not otherwise.

Now whereas for many years past, upon divers good considerations, there was a confederation agreed upon, by ye antient English Colonies, under his Ma'ties authority in New England for mutuall help, and defence, as also for ye better mainteyning his Ma'ties interest ag'st any opposition or intrusion of the barbarous natives and others, as appeareth by articles that were agreed upon, in ye year 1643, and upon record to be seen; whereby ye said Colonyes have been so united, as hath proved very beneficiall to all his Majesties subjects in these parts, for their peace and security; and where the severall Generall Courts of ye said Colonyes, have seen cause to renew the said confederation with some necessary alterations and addition to ye s'd articles, as is more fully exprest in ye articles above written: and also whereas ye Generall Court for ye Massachusetts Colony by their commission, dated in Boston August 30, 1672, have nominated Thomas Danforth, Esqr., and Majr. William Hathhorne Esqr. their comissioners, investing them with full power and authority to signe, ratifie, and confirme ye above recited articles of confederation; and in like manner ye Generall Court held at Plimouth June 5, 1672, have nominated Thomas Prence Esqr., and Majr. Josiah Winslow Esqr., investing them with like power, and ye Generall Court of Connecticott Colony, held at Hartford, May 9, and June 26, 1672, have in like manner nominated John Winthrop Esqr., and James Richards Esqr., investing them with like power, the above'sd comissioners being assembled at Plimouth, Sept. 5, 1672, have read and examined these above written articles; doe accr. to their s'd comission, and by virtue thereof, clearly and absolutely ratifie and confirme the same for the re-establishing of a perpetuall confederation between the above named Colonyes, as was ye declared intention of the former articles; in confirma-

tion whereof the comissioners above named, by the authority granted them from their severall Generall Courts, and in their name and stead, have hereunto subscribed their hands, in Plimouth.

Thomas Danforth,
Wm. Hathorne,
Tho. Prence,
Josiah Winslow,
John Winthrop,
James Richards.

September 5, 1672.

At a meeting of the Colonies of Massachusetts, Connecticut and Plymouth, in 1672, the Articles of Confederation were revised and readopted for the three, dropping New Haven.

Under the apprehension of an invasion by the Dutch, a meeting under this reconstituted confederacy was held, and the following remonstrance adopted:

Hartford, August 27, 1673.

The Commissioners of the United Colonies in New England, having had communicated unto them a letter sent from the Governor and General Assembly of Connecticut Jurisdiction, unto the commanders-in-chief of the Dutch fleet riding in Hudson's River; as also their answer thereunto, wherein they declare themselves sent forth from the States General of the United Netherlands, to do all manner of damage unto the enemies of the said States, both by water and land, &c.; upon serious consideration of the whole matter, do judge meet to declare their approbation of the said letter from our allies unto the said Dutch; and do also hereby further declare that, according to the articles of confederation, they shall at all times account the damage or spoil that shall be done to any one member of the confederate Jurisdictions, as done to the whole; and are therefore firmly resolved, in confidence of divine assistance, accordingly to demean themselves; and do also commend to the General Courts of the several Jurisdictions, that sufficient orders be given, and all due and effectual care be forthwith taken for provision of all manner of ammunition, men, and means of defence, that there may be no disappoint-

ment of aid to any one of the Colonies which may be first invaded. And this our remonstrance be forthwith published in the several Colonies, by sound of the trumpet or beat of the drum.

The copies of the letters abovesaid are as followeth:

Hartford, August 7th, 1673.

Sir:

Although we have heard of your actions at York, yet because the chief trust of those parts did reside in other hands, from whom you have too suddenly surprized it, we made it our business to attend what was devolved upon ourselves that way nextly. Yet we understanding you content not yourselves with what you have already taken, but demand submission of the people, his Majesty's subjects seated on Long Island eastward, beyond Oyster Bay, and have seized a vessel of Mr. Sellick's, one of our people, near one of our harbors, we have therefore sent James Richards Esq. and Mr. William Rosewell to know your further intentions. And we must let you know, that we and our confederates, the united Colonies of New England, are, by our Royal Sovereign Charles the 2d, made keepers of his subjects liberties in these parts, and do hope to acquit ourselves in that trust, through the assistance of Almighty God, for the preservation of his Majesty's Colonies in New England. Which is all at presented to you, from The Governor and General Assembly of the Colony of Connecticut. Signed, per their order,

per me, John Allyn, Secretary.

These for the commander-in-chief of
the Dutch Fleet riding in Hudson's River,
at New York, This
per Mr. James Richards & Mr. Wm. Rosewell.

To one who desires to ascertain the meaning of an ancient legal document there is no greater hindrance than to have it a partial copy of a still older document which has been altered since its original writing and remains in force as so altered.

Four colonies united in constituting the Confederacy known as The United Colonies of New England. They were all feeble organizations at the date of the document in question here.

The formers of the organization desired a perpetual peace and league of friendship between the four confederates, and stipulated for it in the strongest terms that they could use. One of the colonies concerned was absorbed in another of them in about twenty years.

The Confederation was to give "advice and succor upon all just occasions for preserving and propagating the truth and liberties of the Gospel." They also had general authority for their own mutual safety and welfare. The preamble to the Articles of Confederation in 1643 suited better the tone and spirit of the first part of the 17th century than those of the second part. All "came into these parts of America with one and the same end, namely, to advance the Kingdome of our Lord Jesus Christ and to enjoy the liberties of the Gospel in purities with peace." The reasons for the Confederation are given at length. The Colonies were so distant from the mother country, and the distances between different parts of the Colonies so great and communication so difficult that it was hardly suited to one government and jurisdiction. There was danger of Indian attack. Under these circumstances it seemed a duty "to enter into a present association amongst ourselves for mutual help and strength in all our future concernments, that, as in nation and religion, so in other respects, we be and continue one according to the tenor and true meaning of the ensuing Articles."

It will be noted that the scope of action of the confederacy was very broad. There was a "general welfare" clause which would certainly call for the decision of questions of difficulty.

The Articles of Confederation provided that in case of invasion of the territory of any of the four colonies,

if it appeared that the fault lay with the party so invaded, the authorities who then had jurisdiction of the plantation or colony or single town in the colony were to make just satisfaction to the invaders whom they had injured and bear all the charges of the war themselves, without requiring any allowance from the other confederates towards the same. Here appears the influence of civilization.

The United Colonies of New England were represented in this confederacy by General Courts composed of two commissioners from each of the four colonies. In such Courts all the affairs of war, peace, relief, aids, charges, and numbers of men for war, division of spoils and whatever is gotten by conquest, receiving more confederates or plantations in combination with any of the confederate colonies, were to be settled. Any six of the eight commissioners would have power to settle any business. When six did not agree, then such action should be referred to the four General Courts of the respective colonies. They were to elect one of their number as President. Fugitive slaves or bond servants were to be returned to their masters by order of magistrates in the colony where they were found.

The Articles of Confederation provide that the colonists shall all be and henceforth shall be called by the name of The United Colonies of New England. This does not assume to make a corporation of the confederacy, but simply provides for a name. In their altered form, the Articles do not seem to have been intended to erect a new jurisdiction, subject to one government. Each colony was to be mainly autonomous.

They meant to take care, and did, that only members of one of the approved churches of New England could

participate in the functions of government. The General Courts, it is declared, "being entrusted by the freemen with jurisdiction, are the ministers of God to the good of the people, and have power to declare, publish, and establish for the plantations within their jurisdiction laws they have made, and to make and repeal others for similar matters not particularly determined in Scripture, according to the more general rules of righteousness, and while they stand in force to require the due execution of them."

These Articles of Confederation of the United Colonies have a certain resemblance to those adopted in 1781 by the United States of America, but there are important differences, of a fundamental character. The first to strike the eye is the strong religious cast of the later form of the compact. This savored of the far past, instead of the far future.

The original Articles of Confederation contain marginal references to the Bible, chapter and verse, in support of the scheme of the Articles.

In particular, the freemen were to "order and regulate trade both with the Indians and others, according to the rules of righteousness and prudence for the public good, and to settle and levy rates, contributions and impositions, from all sorts of persons, good or bad, within its jurisdiction, as the public service and occasions of the church or commonwealth may from time to time require." [132] "For this cause pay ye tribute also; for they are God's ministers, attending continually upon this very thing. Render therefore unto all their dues; tribute to whom tribute is due, custom to whom custom, fear to whom fear, honor to whom honor."

[132] Romans xiii. 6, 7.

The General Court also had judicial power to hear and determine all causes whether civil or criminal which by appeal or complaint should be brought or ordered in to them either from any inferior court or from any plantation. "In all which, with whatever falls within their cognizance, trust or judicature, as the highest court in this jurisdiction, they shall proceed according to Scripture light, and laws and orders agreeing therewith."

Where the governing power was concerned, their idea was regulated by Deut. i. 13:[133] "Take you wise men and understanding and known among your tribe, and I will make them rulers over you." Jeremiah xxx. 21 is also referred to:[134] "And their nobles shall be of themselves, and their governor shall proceed from the midst of them."

The people had in practice far more authority and jurisdiction in matters of internal concern in each particular colony, than did the ordinary colonists.

The Articles of Confederation were rather roughly put together. Although they date with the making of the agreement, September 7th, 1643, they cover also the date in 1672 when the Articles were revised after a fashion.

It has been said in a previous chapter that the history of Connecticut is the history of representative government. The Commissioners under the Articles of Confederation followed the same general course as would those of each of the component colonies so far as it was in harmony with the traditions of New England.

Organization being completed, next came the estab-

[133] Hinman's Antiquities, p. 71.
[134] *Ibid.*

lishment of friendly relations with the rulers of the land on which the colony bordered. The relation thus established might lead to co-operation, absorption, or consolidation.

Connecticut passed through all these stages of development, and the inhabitants of each colony joined in effect, if not in design, in leading the way toward the organization of the United States. The people exercised large civil authority, and they had, in each colony, more or less of the sovereign power.

For several years after the creation of the Board known as the Commissioners of the United Colonies, it met annually, in September, and occasionally at other times. In the latter part of their existence the meetings were triennial.

The special and principal part of their business after the first years was the care of gospelizing the Indians. The society established by Parliament for propagating the Gospel in New England among the Indians named the commissioners their agents for dispensing the charitable donations.

The Articles of Confederation of the United Colonies in general design were a species of consociation, that is, a body of individuals which is more than an association. It has power, not simply to recommend, but to ordain. If the will of the majority is disputed, it is not subject to the will of its constituent members. In churches of the Congregational and Presbyterian denominations this is an important distinction.

The Saybrook Platform of 1708 was organized on this principle, and this is employed by those adhering to the denomination as a correct method of procedure.

These Articles of Confederation have a certain re-

semblance to those adapted in 1781 by the United States of America but there are important differences, of a fundamental character.

The first to strike the eye is the strong religious cast of the later compact. This savored of the far past, instead of the far future.

The later State confederacy did not follow the earlier Colonial confederacy, in confining the delegation of power within narrow limits. On the contrary, they began with the provision that

> each State retains its sovereignty, freedom and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the united states, in congress assembled.[135]

The United States, under the Articles of Confederation, were what a recent English writer has declared that every independent nation is—"the organization of organizations." [136] They were a feeble organization of thirteen strong organizations. The ordinary nation has for its constituents all its people, but they are organized politically in various territorial divisions, such as counties, towns, and cities, and socially in various business, or ecclesiastical, or institutional divisions. Some of them are associated in the form of banks, or railroads; others as or around universities; as churches and dioceses; or as societies of a less formal character for promoting particular theories of human conduct.

The constituents of the United States of the Revolution and of the Confederation were thirteen peoples, not one. Each of these peoples were grouped in different

[135] Articles of Confederation, Article II.
[136] Lindsay, The Political Quarterly, I, 140.

forms of organization, under a local government of their own; but the United States, as such, claimed no authoritative jurisdiction over any of these groups in any State, and had none over the State itself.

Chapter III

RELATIONS WITH THE INDIANS—INTERNATIONAL RELATIONS—WAR—RELATIONS WITH THE BRITISH GOVERNMENT

THE New England colonists hoped to create another England in the American wilderness. They did not all come from the same motives. Some of them thought mainly of the material England and of earning their living there under better conditions. Most of them meant to spread the spirit of Christianity there, and the true spirit, which they thought was to be found in the Old Testament as authoritatively as in the New.

None of them thought much about the right of Englishmen to get possession of the American lands they needed to accomplish their designs.

It was generally held in England and in all Europe, that countries which were unoccupied, unless by savages, could be lawfully seized and occupied by any Christian Power. This doctrine came down from the ages when the Roman Catholic Church was the only Christian church in the world. The pope was the general representative of the church. He therefore claimed the right to convey this right of seizure of lands of savages to whom he might think meet. By successive papal bulls, issued from time to time, Europe and America were thus divided up, and England got at least color of title to the soil of New England.

When the Pilgrims were about to sail, a minority of them renewed the opposition with which they had pre-

viously met the suggestion of going to Holland. In a passage, (the first few lines of which were taken from this book) by the Governor in his letter before-mentioned to the school children of the State, it was granted by Gov. Bradford that the difficulties in the way of emigration were great, but he declared that the difficulties, while many, were not invincible,

> for though there were many of them likely, yet they were not certain, and might be some some things feared that might never befall; others by provident care in the use of good means might in a measure be prevented and all of them by the will of God by fortitude and patience might either be borne or overcome. True it was that such attempts were not to be made and undertaken without good ground and reason, not rashly or lightly, as many have done for curiosity or hope of gain, etc., but their condition was not ordinary; their ends were good and honorable, their calling lawful and urgent, and therefore they might expect the blessing of God in their proceedings; yet though they should lose their lives in this action, yet might they have comfort in the same, and their endeavors would be honorable. They lived here but as men in exile and in a poor condition, and as great miseries might possibly befall them in this place, for the twelve years of truce were now out, and there was nothing but the beating of drums and preparing for war. The events of war were alway uncertain, the Spaniard might prove as cruel as the savages of America, and the famine and pestilence as sore here as there, and their liberty less to look out for remedy. After many other particular things had been alleged on both sides, it was fully concluded by the major part to put this design in execution, and to prosecute it by the best means they could.

In this year, 1620, there appeared at Amsterdam two brochures depicting the cruelties perpetrated by the Spaniards in the Netherlands and in America. The pictures were horrible. Published at this time, when the truce of twelve years was about to end, they would well serve to excite the people of Holland against their

would-be conquerors, and deter the Leyden congregation from venturing within the reach of such cruel and murderous enemies.

It is a common impression that the Plymouth settlers first came in contact with the native Indians after the landing from the Mayflower. On the contrary, they had met them several times before. She carried, besides her long boat, a large shallop, on which her company of explorers made several short voyages, and met parties of the aborigines in a way not calculated to inspire friendly relations. Governor Bradford, in his *History of the Plymouth Colony,* Chapter 10, gives the following account of the best known of their voyages of exploration:

Being thus arrived at Cap-Cod the .11. of November, and necessitie calling them to looke out a place for habitation, (as well as the maisters and mariners importunitie,) they having brought a large shalop with them out of England, stowed in quarters in the ship, they now gott her out and sett their carpenters to worke to trime her up; but being much brused and shatered in the shipe with foule weather, they saw she would be longe in mending. Whereupon a few of them tendered them selves to goe by land and discovere those nearest places, whilst the shallop was in mending; and the rather because as they wente into that harbor ther seemed to be an opening some .2. or .3. leagues of, which the maister judged to be a river. It was conceived ther might be some danger in the attempte, yet seeing them resolute, they were permited to goe, being .16. of them well armed, under the conduct of Captein Standish, having shuch instructions given them as was thought meete. Yhey sett forth the .15. of Nove(m)b(e)r; and when they had marched aboute the space of a mile by the sea side, they espied .5. or .6. persons with a dogg coming towards them who were salvages; but they fled from them, and ranne up into the woods, and the English followed them, partly to see if they could speake with them, and partly to discover if ther might not be more of them lying in ambush. But the Indeans seeing them selves thus followed, they

againe forsooke the woods, and rane away on the sands as hard as they could, so that they could not come near them, but followed them by the tracts of their feet sundrie miles, and saw that they had come the same way. So, night coming on, they made their randevous and set out their sentinels, and rested in quiete that night, and the next morning followed their tracte till they had headed a great creeke, and so left the sands, and turned an other way into the woods. But they still followed them by geuss, hopeing to find their dwellings; but they soone lost both them and them selves, falling into shuch thickets as were ready to tear their cloaths and armore in peeces, but were most distressed for wante of drinke. But at length they found water and refreshed them selves, being the first New-England water they drunke of, and was now in thir great thirste as as pleasante unto them as wine or bear had been in for-times. Afterwards they directed their course to come to the other shore, for they knew it was a necke of land they were to crosse over, and so at length gott to the sea-side, and marched to this supposed river, and by the way found a pond of clear fresh water, and shortly after a good quantitie of clear ground wher the Indeans had formerly set corne, and some of their graves. And proceeding furder they saw new-stuble wher corne had been set the same year, also they found wher latly a house had been, wher some planks and a great ketle was remaining, and heaps of sand newly padled with their hands, which they, digging up, found in them diverce faire Indean baskets filled with corne and some in eares, faire and good, of diverce collours, which seemed to them a very goodly sight, (haveing never seen any shuch before). This was near the place of that supposed river they came to seeck; unto which they wente and found it to open it selfe into .2. armes with a high cliffe of sand in the enterance, but more like to be crikes of salt water than any fresh, for ought they saw; and that ther was good harborige for their shalope; leaving it further to be discovered by their shalop when she was ready. So their time limeted them being expired, they returned to the ship. least they should be in fear of their saftie; and tooke with them parte of the corne, and buried up the rest, and so like the men from Eshcoll carried with them of the fruits of the land, and showed their breethren; of which, and their returne, they were marvelusly glad, and their harts incouraged.

After this, the shalop being got ready, they set out againe for the better discovery of this place, and them (aste)r of the ship de-

sired to goe him selfe, so ther went some .30. men, but found it to be no harbor for ships but only for boats; they was allso found .2. of their houses covered with matts, and sundrie of their implements in them, but the people were rune away and could not be seen; also ther was found more of their corne, and of their beans of various collours. The corne and beans they brought away, purposing to give them full satisfaction when they should meete with any of them (as about some .6. months afterward they did, to their good contente). And here is to be noted a spetiall providence of God, and a great mercie to this poore people, that hear they gott seed to plant them corne the next yeare, or els they might have starved, for they had none, nor any liklyhood to get any till the season had beene past (as the sequell did manyfest). Neither is it lickly they had had this, if the first viage had not been made, for the ground was now all covered with snow, and hard frosen. But the Lord is never wanting unto his in their greatest needs; let his holy name have all the praise.

The month of November being spente in these affairs, and much foule weather falling in, the .6. of Desem(be)r they sente out their shallop againe with .10. of their principall men, asd some sea men upon further discovery, intending to circulate that deepe bay of Cape-Codd. The weather was very could, and it frose so hard as the sprea of the sea lighting on their coats, they were as if they had been glased; yet that night betimes they gott downe into the botome of the bay, and as they drue nere the shore they saw some .10. or .12. Indeans very busie aboute some thing. They landed about a league or .2. from them, and had much a doe to put a shore any wher, it lay so full of flats. Being landed, it grew late, and they made them selves a barricado with loggs and bowes as well as they could in the time, and set out their sentenill and betooke them to rest, and saw the smoake of the fire the savages made that night. When morning was come they devided their company, some to coast along the shore in the boate, and the rest marched throw the woods to see the land, if any fit place might be for their dwelling. They came allso to the place wher they saw the Ind(i)and the nighe before, and found they had been cuting up a great fish like a grampus, being some .2. inches thike of fate like a hogg, some peeces wher of they had left by the way; and the shallop found .2. more of these fishes dead on the sands, a thing usual after storms in that place, by reason of the great flats of sand that lye of. So they ranged up and doune all that day, but found no people.

nor any place they liked. When the sune gruelow, the hasted out of the woods to meete with their shallop, to whom they made signes to come to them into a creeke hardby, the which they did at highwater; of which they were very glad, for they had not seen each other all that day, since the morning. So they made them a barricado (as usually they did every night) with loggs, stakes, and thike pine bowes, the height of a man, leaving it open to leeward, partly to shelter them from the could and wind (making their fire in the middle, and lying round aboute it), and partly to defend them from any sudden assaults of the savages, if they should surround them. So being very weary, they betooke them to rest. But aboute midnight, they heard a hideous and great crie, and their sentinell caled, Arme, arme; so they bestired them and stood to their armes, and shote of a cupple of moskets, and then the noys seased. They concluded it was a company of wolves, or such like willd beasts; for one of the sea men tould them he had often heard shuch a noyse in New-found land. So they rested till about .5. of the clock in the morning; for the tide, and ther purposs to goe from thence, made them be stiring betimes. So after praier they prepared for breakfast, and it being day dawning, it was thought best to be carring things downe to the boate. But some said it was not best to carrie the armes downe, others said they would be the readier, for they had laped them up in their coats from the dew. But some .3. or .4. would not cary theirs till they wente them selves, yet as it fell out, the water being not high enough, they laid them sowne on the banke side, and came up to breakfast. But presently, all on the sudain, they heard a great and strange crie, which they knew to be thesame voyces they heard in the night, though they varied their notes, and one of their company being abroad came runing in, and cried, Men, Indeans, Indeans; and withall, their arowes came flying amongst them. Their men rane with all speed to recover their armes, as by the good providence of God they did. In the mean time, of those that were ther ready, tow muskets were discharged at them, and .2. more stood ready in the enterance of ther randevoue, but were commanded not to shoote till they could take full aime at them; and the other .2. charged againe with all speed, for ther were only .4. had armes ther, and defended the baricado which was first assalted. The crie of the Indeans was dreadfull, espetially when they saw ther men tune out of the randdvoue towourds the shallop, to recover ther armes the Indeans wheeling aboute upon them. But some running out

with coats of malle on, and cutlashess in their hands, they soone got their armes, and let flye amongs them, and quickly stopped their violence. Yet ther was a lustie man, and no less valiante, stood behind a tree within halfe a musket shot, and let his arrows flie at them. He was seen shoot .3. arrowes, which were all avoyded. He stood .3. shot of a musket, till one taking full aime at him, and made the barke or splinters of the tree fly about his ears, after which he gave an extraordinary shrike, and away they wente all of them. They left some to keep the shalop, and followed them aboute a quarter of a mille, and shouted once or twise, and shot of .2. or .3. peces, and so returned. This they did, that they might conceive that they were not affrade of them or any way discouraged. Thus it pleased God to vanquish their enimies, and give them deliverance; and by his spetiall providence so to dispose that not any one of them were either hurte, or hitt, though their arrows came close by them, and on every side (of) them, and sundry of their coats, which hung up in the barricado, were shot throw and throw. Afterwards they gave God sollemne thanks and praise for their deliverance, and gathered up a bundle of their arrows, and sente them into England afterwards by the m(aste)r of the ship, and called that place the first encounter.

No one can fairly judge the character of this encounter without putting himself into the atmosphere of the seventeenth century.

* * * * *

No people, or at least no people who were not white were deemed to have any rights which white men were bound to respect. It was the received opinion in civilized nations that Christians could lawfully occupy the lands of uncivilized nations, and hold them as if they were their absolute property.

When the Plymouth settlers dug up and carried away a store of Indian corn, belonging to somebody else, the owner of the corn might regard it as stealing but the governing law of the land did not, unless perhaps the man who carried it off was in danger of starvation.

It is to be remarked that the General Court made war upon the Indians as early as May 1st, 1637, a date prior to the creation of the new Colonies by the settlers of the Connecticut River. The policy in the Colonies toward the Indians was decided at that time. It was a case of necessity, or at least believed to be such.

For a large part of the time during which the English settlements were extended through Connecticut there was an intermittent war with the Indians. The influence of the Christian religion was not always evidenced by the acts of the settlers. Such encounters have little attraction for the student of American history. A few of the Indians professed to adopt the Christian religion, and were called "praying Indians," but the life of the Indian was active, stirring and self-reliant, and he had little affinity with the currents of religious thought.

The title acquired by purchases of land from the Indian nations was a slender one. The General Court undertook to pass upon it in 1717, by the following Act:

This Assembly, observing many difficulties and perplexities arising in this government by reason of many purchases of land made of Indian titles without the preceding allowance or subsequent approbation of this Assembly: which to remove,

It is hereby enacted and declared by this Assembly and the authority thereof, That all lands in this government are holden of the King of Great Britain as the Lord of the fee; and that no title to any lands in this Colony can accrue by any purchase made of Indians on pretence of their being native proprietors thereof, without the allowance or approbation of this Assembly.

So it is hereby resolved, That no conveyance of native right or Indian title, without the allowance or approbation of this Assembly as aforesaid, shall be given in evidence of any man's title, or pleadable in any court.

And further it is resolved, That inasmuch as many such purchases have been made, and the persons who have so made them

or those who claim under them may think they have hard measures if they may not retain some considerable proportion thereof or other lands in lieu thereof assigned to them, that John Hamlin, Esq., Mr. John Hooker, and Capt. James Wadsworth, shall be a committee, or any two of them, by such ways and means as thay shall think fit, to inquire into and gain a true understanding of all the claims aforesaid and lay the true circumstances of all the said claims before the Assembly in October next, with what they may understand may be to the satisfaction of the claimers, either within the bounds of any town with the consent of the proprietors or elsewhere within the ungranted lands of this Colony, together with their opinion thereon, to this end that the said Assembly may settle this whole affair, and proceed to the settlement of all the undisposed lands in this Colony in such manner as shall them be determined, that all future troubles about our settlements may be avoided.[1]

The settlers of Connecticut bought from the Indians whom they found in possession such title as they had to give, and were willing to convey to the lands on which they set up their "plantations." These purchases were made by individuals and deeds were taken to the purchasers. They, however, really bought for the future colony, to which the title was to be thereafter conveyed. The Indians signed the deeds with their marks. These were in the nature of hieroglyphics, roughly representing some quality in the native, distinguishing him from the other tribesmen. The deeds were given for a purchase price of cloths, medicine, nails, etc., agreed on by the parties to the transaction.

Where the lands in question were in territory as to which there was afterwards a dispute as to the title or bounds, confirmatory deeds were often sought from the disputants.

This will be plainer by reference to a particular in-

[1] Colonial Records of Connecticut, 1717–1725, 13.

stance. On the trial of a suit involving the title to land two "patents" from the Colony were introduced, one granted in 1685, confirming to the proprietors of the township of New Haven, and their heirs, successors and assigns forever, the lands then comprised within the bounds of the township, abutting "on the Sea or Sound on y^e^ South from y^e^ mouth of Oister river to the mouth of Scotch Cap or Stony River"; and another, granted in 1704, confirming the same lands to the proprietors at the date of the first grant and "their heirs or assignes or others lawfully deriveing & holding from by or under them or any of y^m^ Respectively forever in such maner & by such devidends allottments & proportions as have been granted assigned & laid out to each of them severally by y^e^ grants votes and orders of y^e^ inhabitants & propriators in any meeting or meetings Regularly assembled & that at any time or times hereafter shall or may further be allotted assigned & set forth according w^th^ proportionable Right and priviledge in y^e^ Comons & Lands yet Remaining to be divided. . . ."

An ancient town vote was also produced, as follows:

A Towne Meeting in New Haven y^e^ 27th of December, 1686. The Townsmen acquainted y^e^ Towne that they considered y^e^ highwaiwes about the Towne and gathered them together so far as they can find any and have been already staked and have thought it necessary they should be recorded, and then what they had prepared was read unto y^e^ Towne, and is as here followeth:

"For as much as highwaies are necessary to knowne & kept for Comon Roads & perticular psons to goe to theyer lands, meadows, Comons the Townsmen have gethered together all y^e^ highwaies that are yet staked w^ch^ they know of to be recorded." Then, after the description of highways first above quoted, came this conclusion: "Thees forementioned highwaies in y^e^ third division when y^e^ Towne had heard y^e^ surveyor's descriptions, they ordered they should be allsoe recorded."

On this the Court gave the following opinion:

The colony patent of 1685 had constituted the "proprietors, inhabitants of New Haven" and their heirs, successors and assigns forever "one Intire Township of & within itselfe, invested with such liberties, priviledges & powers to manage theyre owne plantation affairs accoeding to law as hitherto to all intents and purposes whatsoever." They had previously attained such title to their lands as the Indians could give; and during the existence of the colony or "jurisdiction" of New Haven, the plantation of New Haven had claimed and exercised governmental powers. The absorption of the colony of New Haven by the colony of Connecticut left in some doubt the legal effect upon land titles of the early doings of the plantation. No title to real property could be deemed clear that was not traceable to a grant from the crown. Hence was sought the patent of 1685. Hence also the proprietors would naturally be anxious as soon as possible to put on the town records some account of what had been previously done by them or their predecessors in dedicating any part of their lands for highway purposes. To this end the selectmen or, as they were then called, "townsmen," during the year next following, prepared for record the paper now in question. It was well adapted to the object in view, but there was nothing in it which purported to throw out or retain land for anything but highway purposes. Whether the common to which it referred embraced any part of the land in controversy in this cause did not appear. It was not disputed that the land had been alloted six years before in severalty to Thomas Trowbridge. The existence of a highway over it would not be inconsistent with the allotment. To treat any part of it as common, that is, undivided land, clearly would be.[2]

The grant from the Crown thus alluded to was that to be found in the Colony charter of 1662.

The New England Indians were not pleasant persons to deal with. Wood, who had superior opportunities for forming an opinion, writes this of the Mohawks, as they appeared in 1634, when he published in London his "New England's Prospect":

[2] Dawson v. Orange, 78 Connecticut Reports, 105, 114, 115.

These are a cruell and bloody people, which are wont to come downe upon their neighbours with more than savage brutishnesse, spoiling of their corne, burning their houses, slaying men, yea, very caniballs; they were sometimes eating on a man one part after another before his face, and while yet living; insomuch thet the very name of Mowhack would strike the heart of a poor Abergenian dead, were there not hopes at hand of releefe from the English to succour them: for these inhumane homicides confesse that they dare not meddle with a white-faced man, accompanyed with his hot-mouthed weapon. These Indians be more desperate in their warres than the other Indians, which proceeds not onely from the fierceness of their natures, but also in that they know themselves to be better armed and weaponed; all of them wearing sea-horse skins and bark of trees, made by their art as impenetrable, it is thought, as steele, wearing headpeeces of the same, under which they march securely, and undauntedly running, and fiercely crying out, "Hadree, hadree, succomee, succomee," "We come, we come to suck your blood;" not fearing the feathered shafts of the strong-armed bowmen, but like unruly, headstrong stallions, beat them down with their right-hand tamahaukes and left-hand javelins, which are all the weapons which they use, counting bowes a cowardly fight.[3]

The relations of the colonists with the leading tribe in Connecticut, the Mohegan, were friendly for a long course of years. Uncas, their sachem was a man of superior intelligence, and looked ahead in his dealings with the natives, as the following deed serves to show:

From the Norwich Town Records.

Whereas Owaneko, the Indian Sachem and soane of Uncas, hath desired of the town of Norwich a yerll of lande lyinge near Showtucket rivere, the town hath appointed and ordered Thomas Tracy, Thomas Leffingwell and John Post to lay out three hundred acres of land, and they have accordingly attended their order, one end of the land abutting westerly upon the land of James Ffitch, and the other end easterly abutts upon the commons, and

[3] "Mowhack" was an Indian name for Mohawk, and "Abergenian" was probably Wood's way of spelling aborigine.

the one side southerly abutts on Queenebaug rivere, and the other side northerly on the commons, the said men have measured and marked out the said land, and the towne doth give unto Owaneko this land on conditions as followeth:—first, the towne doth freely give unto Owaneko and to his heires but so as y't Owaneko nor any of his heires, have power or any liberty to sell it, or by any other means to alienate to any others, onely if Owaneko hath no natural heire to succeed him, and the Indians who were his or her heires subjects shall desire to abide and inhabite upon the land, they shall then have such a Sachem placed and set over them as the towne of Norwich and the Shotuck Indians shall agree, and if these parties cannot agree, the court of Connecticut shall determine who shall be their Sachem, the towne of Norwich and the said Indians being bound to committ it to them. . . . Its further ingaged said court by Owaneko that the lands which the Indians shall . . . by planting of corn or otherwise they must secure themselves by fencind and that if any damage be done by the English of the town of Norwich, the English are not bound to make satisfaction for the said damages. Its further ingadged by Owaneko, that he nor his Indians have any liberty to keep hogs but what they do keep in their own lands, but no liberty to go upon lands common to the English. Its further ingadged by Owaneko that if any of his subjects, his Indians, do any wrong to the town of Norwich, or any of the inhabitants of the said town, by killing their cattel or trespassing upon them in any such way, or acting as in accordance to the laws of the English judged to be a trespas or wrong, the said Owaneko doth ingadge to make legall satisfaction if there be legall proof of the said wrong: and that if upon sufficient experience its manifest that the said Owaneko will not be responsible according to wholesome order, but he or his men doe become refractory, and will not reform such notorious disorderly practices specified, nor make satisfaction for the said damages and wrongs, the s—Owaneko shall then forfait the said lands into the hands of the towne of Norwich:—Its further engadged by Owaneko that whereas as he hath recevad these lands by gift from the towne of Norridg, the town does order y't he shall forbeare on the Sabbath day from working, hunting, fishing or any servile labour, and if any of his subjeck be found guilty of this violation, they shall be lyable to be punished, and to these said and above specified particulars the said Owaneko doth bind and ingadge himself, his

JOSEPH WEBB HOUSE, WETHERSFIELD, BUILT 1753

One of the stately Pre-Revolutionary houses of Connecticut. Washington and Rochambeau planned the Yorktown Campaign in this house, now owned by the Connecticut Society of Colonial Dames.

This Monument was erected in Southport, Fairfield, by the Society of Colonial Wars in the State of Connecticut. The Inscription is "The Great Swamp Fight Here Ended the Pequot War, July 13, 1637."

heirs, and lawful successours, this two and twentieth of March, Anno 1669.

Witnesses—Mr. James Ffitch, Mr. John Mason, Junior.

Owaneko
his mark.[4]

The first official record of the relations of the colonists to the Indians took the form of a declaration of war. This was made by the General Court as before mentioned, on May 1, 1637, acting under color of the commission from Massachusetts Bay. The vote assigned no cause and read thus:

* * * * *

It is ordered that there shalbe an offensiue warr ag^{t} the Pequoitt, and that there shalbe 90 men levied out of the 3 Plantac̃ons, Harteford, Weathersfeild & Windsor (vizt) out of Harteford 42, Windsor 30, Weatherfeild 18: vnder the Com̃ande of Captaine Jo: Mason & in Case of death or sickness vnder the Com̃and of Rob'te Seely Leif^{t}, & the'ldest S^{r}ieant or military officer surviveing, if both these miscarry.[5]

On June 2, the Court passed this second order:

It is ordered y^{t} there shalbe sent forth 30 men out of the seu^{r}all plantac̃ons in this River of Conectecott to sett downe in the Pequoitt Countrey & River in place convenient to maynteine o^{r} right y^{t} God by Conquest hath given to vs, & Leiftenn^{t} Seely shall haue the Comande of them. The men are to be raised 14 out of Harteford, tenn out of Windsor, 6 out of Wytheresfeild.[6]

The declaration of war of May 1, 1637, called forth the following vote of assistance by New-Plymouth:

It is concluded and enacted by the Court, that the Colony of New-Plymouth shall send forth ayd to assist them of Massachusetts-Bay and Conectacutt, in their warrs against the Pequin In-

[4] Barber, Connecticut Historical Collections, 301, 302.
[5] Colonial Records of Connecticut, 1636–1665, 9.
[6] *Ibid.*, 10.

dians, in reveng of the innocent blood of the English which the said Pequins have barbarously shed and refuse to give satisfaccon for.[7]

The war resulted in victory for the colonists, whereupon the General Court of Massachusetts passed the following vote:

Whereas it hath pleased the Lord of his great mercy, to deliver into our hands our enemies the Pecoits and their allies, and that thereby the lands and places which they possessed are by just title of conquest fallen to us, and our friends and associates upon the River of Connecticutt: And whereas by subduing those our enemies, not only ourselves and our said associates, have obtained rest and liberty; but opportunity is also given for peaceable habitation to all such as shall hereafter inhabit the lands of our said enemies, both at Pecoit and Quinapiack, and the parts beyond towards the Dutch: We do hereby declare the just right and title, which ourselves and our said associates upon Connecticutt have to all the said lands and territories; and withall it is our desire, that our said associates (according to the articles of confederation agreed upon between us) will be pleased to appoint two committees, sufficiently authorized to give our committees a meeting at Newtown, so soon as the season of the year will permit, to consult and determine of the disposing and planting of the said lands, and setting down an equall and rateable proportion towards the charges expended in the said wars, to be paid by all such as shall be admitted to plant and inhabit the same; and that they will please to give us convenient notice of the time of their coming and consent of joining with us in this consultation, 17th 9th Month.

per I. N., Secret.[8]

In 1639 we find these entries of the first occasions for criminal proceedings, as follows:

Octob: 26: 1639.

The ciuill affayres of the plantatiō being settled as before, by the puidence of God an Indian called Massutunck, alias Nepau-

[7] Hazard's Collections, I, 426.
[8] *Ibid.*, 427, 428.

puck, who had beene formerly accused to have murderously shed the bloode of some of the English; of his owne accorde w^th^ a deer's head vpon his back came to Mr. Eatons, where, by warrant the marshall apprehended and pinioned him, yett nottw^th^standing by the subtillty and treachery of another Indian his companio, he had allmost made an escape, butt by the same providence he was againe taken and deliu^r^ed into the magistrates power, and by his order safely kept in the stocks till he might be brought to a due tryall. And the Indian who had attempted his escape was whipped by the marshall his deputy.

Octo: 28: 1639.

The Quillipieck Indian Sagamour w^th^ diu^r^s of his Indians w^th^ him were examined before the magistrate and the deputyes for this plantatiō concerning Nepaupuck. They generally accused him to haue murdered one or more of the English, and thatt he had cutt of some of their hands & had presented them to Sassacuse the Pequott sachem, boasting that he had killed them w^th^ his owne hands. . . ."

Nepaupuck being by the concurrence of testimony convinced, he confessed that he was the man namely Nepaupuck, and boasted he was a great captaine, had murdered Abraham Finch, and had his hands in other English blood, he said he knew he must dye, and was nott afraid of itt, butt layd his neck to the mātletree of the chimney, desireing thatt his head might be cutt of, or thatt he might dye in any other manner the English should appoynt, onely he said fire was God, and God was angry w^th^ him, therefore he would nott fall into his hands. After this he was retourned to the stocks and as before a watch appoynted for his safe custody.

A Generall Court 29: of Octob: 1639:

A Generall Court being assembled to proceed against the said Indian Nepaupuck who was then brought to the barre, and being examined as before, att the first denyed thatt he was thatt Nepaupuck w^ch^ had comitted those murders wherew^th^ he was charged, butt when he see that the Quillipeck Sagamour and his Indians did againe accuse him to his face, he confessed that he had had his hand in the murder of Abraham Finch, butt yett he said there was a Mohauke of thatt name thatt had killed more than hee.

Wattoone affirmed to his face thatt he, the said Nepaupuck, did not onely kill Abraham Finch, butt was one of them thatt killed

the 3 men in the boate or shallop on Connecticut riuer, and thatt there was but one Nepaupuck and this was he, and the same thatt tooke a childe of Mr. Swaines att Weathersfield. Then the said Nepaupuck being asked if he would nott confess y^{t} he deserved to dye, he answered, it is weregin.

The Court haue had such pregnant proofe, proceeded to pass sentence vpon him according to the nature of the fact and the rule in thatt case, he thatt sheds mans blood, by man shall his blood be shed, according his head was cutt off the next day and pittched vpon a pole in the market place.[9]

In this matter the planters exercised a power of life and death.

Pawquash, a Quinnipiac Indian, was arrested in 1646, on a charge of blasphemy. It appeared that four years before

he came into Mr. Craynes howse when they were blessing God in the name of Jesus Christ; and that he then did blaspheamously say that Jesus Christ was mattamoy & naught, & his bones rotten, & spake of an Indian in Mantoises plantation assended into heaven w^{ch} was witnessed by Mr. Crayne, Mrs. Crayne, Mrs. Ling, W^{m} Holt, Goodie Camp. The centence of the court was that he should be seaverly whipt for thus scorning at o^{r} worshipping God & blaspheame the name of our Lord Jesus, & informd h^{m} that if he should doe soe hereafter or now, it had bin against the light he now has, it would hazzard his life.[10]

In 1666 the General Court of Connecticut gave judgment in an action for larceny against two Indians for damages, and the following action was taken

This Court haueing heard & considered the comp^{lt} of Mr. Tho: Stanton against Cuskatome and his brother in law for stealeing a considerable estate from him, and y^{e} great expence that he was at in app^{r}hending and secureing the said Indians, and considering the recompence y^{t} y^{e} law allowes in such cases, the whole acc^{t} being cast vp the total sum̃ amounts to twenty seauen pounds

[9] New Haven Colonial Records, 1638–1649, 22, 23, 24.
[10] 1 New Haven Col. Rec., 262.

twelue shillings and twopence; of which Cuskatome is to satisfy 15£. 03s. Old, and his brother in law 12£. 09s. Old. The which sums if y^e^ Sachems or their freinds to whom y^y^ doe belonge doe w^th^in fourteen daies after Mr. Stanton acquaints them w^th^ this ord^r^, pay unto his satisfaction in currant pay, then these Indians in durance shalbe released, but if not, Mr. Stanton is hereby impowred to dispose of these Indians by selling or sending them to Barbadoes or any other English Island. And what ouerplus he makes to this sum the said Mr. Stanton shal giue acco^t^ of to y^e^ Publ: Treasurer, all future charges being first discounted out of what is made of them.[11]

In 1724 the following Act was passed:

Upon information that some enemy Indians were waiting for an opportunity to do mischief, not only in the frontier towns of New Milford, Litchfield and Symsbury, but also near the towns of Ridgefield, Danbury (below New Milford,) Woodbury and Newton, where our friend Indians commonly hunt, who have not hitherto been restrained from it, to the southward of the road from Farmington through Litchfield to Danbury and Ridgefield, by reason of which those frontier towns are often alarm'd and are put to great distress, not being able to discern the enemy by their tracks, or to distinguish between friend and enemy Indians when they meet them in the woods: And whereas the firing at deer, or other wild creatures, in and about those towns may do great damage, by making false alarms, and be otherwise of pernicious consequence at this juncture,

Resolved, That all persons whatsover, English or Indians, as well those that are employed in the service against the enemy as those that are not, who shall, without a license first obtained under the hand of the chief military officer of the county presume to fire any gun or guns at deer or any other wild creatures shall be prosecuted as making a false alarm, and incur the penalties in such case provided.

Forasmuch as it has been thought necessary, and resolved, that during the present time of danger in the western frontier no persons, either English or Indians, shall be suffered to hunt, or fire any gun or guns at any deer or other wild creature, till further order: And whereas if any of our friend Indians should be

[11] Colonial Records of Connecticut, 1665–1677, 53.

found in the woods about those towns, (especially now, since all hunting is prohibited,) they may be taken for enemies and be in hazard of their lives: It is therefore ordered that notice hereof be immediately given to the Indians inhabiting on the west side of Connecticut River, by the chief military officer in the counties of Hartford, New Haven and Fairfield; and that they be warned not to venture from the usual places of their abode into the woods, unless in company with the English; to prevent false alarms, and to preserve them from the danger which, in so doing, they will be exposed to.

Resolved, That Major Peter Burr and Major Samuel Eells, and the gentlemen near them in civil and military command, consider whether the friend Indians in the western parts of the Colony, at New Milford, Po-ta-tuck, and elsewhere, (who are now restrained from hunting,) may not safely be employed, to the number of fourteen or fifteen, under the conduct of Lt. Gaylord of New Milford, or some other suitable person, with two or three more Englishmen, to range the woods to the northward of the western towns of the Colony, and endeavour to take a scalp of those enemy Indians that are sculking in that frontier; and that if they judge they may be trusted, they immediately form such a scout, and that blank commissions be for that purpose sent to them. The scout must be assured, that besides the stated wages there is fifty pound to be paid them for every scalp they bring in.[12]

In 1725 the following Act was passed:

Whereas it is certainly reported to this board that New Milford and Pocatuck Indians have lately had several dances, and sundry of them have painted themselves as is usual for Indians to do that design war, and immediately thereupon the shepherd of Stratford was taken by two Indians, painted and carried captive, and by them stamped till he was breathless, and buried as dead, and David Lane, a child, of Stratford, barbarously murthered and mangled, and several of his Majesties good subjects of the English have been threatned to be killed by Indians that profess themselves friends to the English:

1. It is thereupon considered. That forasmuch as painting is the badge of war used by the Indians now in war with the English, and there is no occasion for any Indians that are real friends to the

[12] Colonial Records of Connecticut, 1717–1725, 479.

English to paint: It is therefore resolved, that if any Indian or Indians within this Colony shall be seen painted any time after the 21st day of instant August, and until other orders shall be given by the General Assembly or the Governour and Council, they shall be taken for enemies and proceeded against as such; and the Indians shall forthwith have notice of this resolve.

2. That the Honourable the Deputy Governour Law, and such as he shall call to his Council, are desired and impowred to set such bounds to any parties of Indians within the counties of New Haven and Fairfield as they shall think is most proper, and if any Indians shall be found without such limits they shall be taken as enemies.

3. That if the D. Governour and Council shall think best to order any companies of Indians to appear once a day or once a week before any English person or persons as they shall appoint, and give account of their ramble and business, the Deputy Governour and Council are desired and directed to make such orders, and appoint such penalties to any Indian or Indians that shll not conform thereunto as they shall conclude upon and appoint.

4. If any Englishman or Indian shall make discovery of the murtherers of David Lane, so that they may be convict, such discoverer shall receive as a reward for his good service the sum of twenty pounds out of the publick treasury; and the like reward shall be allowed to such as shall discover and bring (to) conviction those that seized and abused the shepherd at Stratford.

5. If any Indian or Indians shall assault or threaten to kill, or anyways unlawfully terrify and disquiet any of his Majesties subjects, and information thereof is given to any assistant or justice of peace, the said authority are ordered to commit such Indian or Indians to the common goal in the county where the offence is committed, until they shall make satisfaction for all damages to the party smitten, and find sufficient surety of subsidy Englishmen to become bound in a recognizance of f50, that such Indian or Indians shall carry good behaviour till the next county court, and then appear in said court and abide the judgment of the court to be given thereupon, unless the breach of the peace is very great; in which case such assistant or justice of peace are directed to send such offender to the Governour and Council.

Resolved, That John Hooker, Esq., William Wadsworth and Isaac Cowles, or any two of them, shall inspect the Indians of Farmington; and the said Indians, each and every man of them, is ordered to appear before said committee every day about sun-

down, at such place as said committee shall appoint, and give to said committee an account of their ramble and business the preceding day, unless said committee shall, for good reason to them shewn, give their allowance to omit their appearance for some time; and every Indian that shall not attend this order shall for his offence suffer one month's imprisonment and pay all costs of his commitment.[13]

At the Albany conference with the Six Nations, in July, 1754, a proposition from the Indians for forbidding the importation of rum into the territory of the Six Nations was made as follows:

Brethren. There is an affair about which our hearts tremble and our minds are deeply concerned; this is the selling of Rum in our Castles. It destroys many both, of our old and young people. We request of all the Govern^ts^ here present, that it may be forbidden to carry any of it amongst the Five Nations.

Brethren. We are in great fears about this Rum, it may cause murder on both sides. We dont want it to be forbid to be sold us in Albany, but that none may be brought to our Castles. The Cayouges now declare in their own name, that they will not allow any Rum to be brought up their River, and those who do must take the consequences.

Brethren. We the Mohawks of both Castles have also also one request to make, which is, that the people who are settled round about us may not be suffered to sell our people Rum; it keeps them all poor, makes them idle & wicked; if they have any money or goods they lay it all out in Rum, it destroys virtue and the progress of Religion amongst us. (the lower Castle of the Mohawks have a Chapel and an English Missionary belonging to it.)

We have a friendly request to make to the Gov^r^ and all the Commiss^rs^ here present, that they will help us to build a Church at Connejohary, and that we may have a Bell in it, which together with the putting a stop to the selling of Rum, will tend to make us Religious and lead better lives than we do now.

Brethren. We have now fully opened our hearts to you except about the land belonging to the Cannojoharys which caused us to go down to New York last year. The Gov^r^ knows what

[13] Colonial Records of Connecticut, 1717–1725, 551.

our complaint is, and we now desire to know, when that affair will be settled, as it was promised that satisfaction dhoulf be given us on that article.[14]

On July 9, 1773–4, an announcement was made at a conference between the Lieutenant Governour of New York, the Commissioners from the several Governments, and the Indian chiefs, as follows:

Brethren: You told me your hearts were deeply concerned at the sad effects which may arise from selling Rum in your respective Countries. I will give orders that the Laws already made for preventing the Sale of this liquor among you shall be strictly put in execution, and whatever further provision in the law is necessary, I will endeavour shall be made, that you may see I take care of your health and your peace, which are hurt and disturbed by the use of this Liquor among you, of the Five Upper Nations; and as to what you of the Mohawks have said, I shall consider how far it may be necessary to restrain the people living round you from selling Rum, and if I can think of a proper remedy for this evil, I will endeavour to apply it.[15]

The Colony of New Haven has a history of its own, and brought into the Colony of Connecticut some features which it did not find there. The New Haven people inclined towards literalism. The Bible was of equal authority in every part, and that authority was supreme. Belonging to a feeble colony, they made a small contribution to the military operations, and sent few men to fight their battles. The story of all the battles fought by the New England Colonies gives a meagre list. Their number was few. Connecticut and Massachusetts Bay were barriers to Indian invasion.

The main incidents worthy of historical mention were after all petty controversies, though they were some-

[14] Documents relating to the Colonial History of the State of New York, VI, 876, 877.

[15] Documents relating to the Colonial History of the State of New York, VI, 883.

times dignified by being championed by a minister and led by lofty purpose. The most considerable events respecting warfare in the life of the Connecticut Colony took place in the summer of 1654. Two hundred volunteers went from Connecticut to Canada, and Rev. Abraham Pierson accompanied them for their encouragement, comfort and spiritual instruction.

The successful expedition to Canada in the next century meant much to New England. The capture of Louisburg gave new strength to the faith of men like John Read in a greater New England. This meant a greater Connecticut. The vision of a conquest of Canada, and of freedom therefore from Indian warfare, stirred the blood of the younger men.

Dr. Trumbull, the early historian of Connecticut, was justified in the encomium he pronounced on the valor of the victorious armies.

> General Amherst had the honor and good fortune of surmounting all difficulties, and of making such dispositions, as that, almost without the shedding of blood, to complete the conquest of Canada. Thus, in a little more than a century and a half from its first settlement, in the sixth year of the war, after six general battles, this vast country was completely conquered, by the conjoined arms of Great Britain and her colonies. This conquest, if we consider the extent and difficulty of the operations by which it was effected, the number of inhabitants, the greatness and fertility of the country subdued, the safety it gave to the English colonies in America, and the transfer of the whole Indian trade to the merchants of Great Britain, appears to have been one of the most important, ever achieved by the English arms.
>
> The accomplishment of so great a work, with so little bloodshed, without a single instance of rashness or inhumanity, without any considerable accident or misfortune, while it reflected the highest military honor on the commander in chief, did equal honor to the humanity and goodness of his heart. It must be allowed, that he was peculiarly happy, in having subordinate commanders,

who, with such ability and vigor, seconded him in all his operations; and in commanding a body of regular and provincial troops, whom no labors could discourage, and whom no dangers could dismay.[16]

The colonists, he adds, were at the close of the war impressed with a grateful sense of the royal and parliamentary goodness in the grants which had been made with their assistance in defraying the expenses of the war. They were now entirely satisfied with the British government, and felt particularly happy in the protection and privileges which they enjoyed as British subjects. This was the general feeling in New England at the return of peace.

And now came a new era. The extension of settlements, the increase of cultivation, numbers, trade and wealth of all these colonies for about a dozen years after the peace of Paris was almost incredible. During the war, and this whole subsequent period, money was plenty and suffered little or no depreciation. Provisions of every kind, except pork and beef, were in the best demand. It was the policy of Connecticut, in this period, to tax the people as high as they could cheerfully bear. Substantial funds were provided, maturing in short periods, for the payment of their entire debt for the war. The legislature called in all the outstanding debts. Contracts were made for provisions for several years for the army ahead, to the amount of four thousand pounds sterling. This was paid in cash funds. At the same time great quantities of fresh provisions were furnished for military use, and droves of fat cattle. The merchants had a prosperous trade, especially

[16] Trumbull's History of Connecticut, 2, 427.

after the peace, and almost boundless scope of enterprise was given to the colonists.

In these favorable circumstances the return of Connecticut, with her brave and industrious inhabitants, to the cultivation of their farms put the Colony in a position, very soon, to discharge the debt contracted by the war. The other colonies which adopted a different policy and forbore to tax their people in these favorable periods of finance were weighed down with a heavy tax, for a considerable time thereafter.[17]

In the winter of 1746–7 the plans were considered by some of the leading spirits of New England for the conquest of all Canada.

A letter to Governor Law, written by an eminent Massachusetts lawyer, gives a clear picture of the possibilities to which that conquest would open a door. Connecticut would probably have been greatly enlarged, both in area and importance.

The letter is as follows:

John Read to Jonathan Law.

Boston 13. Jan^{ry} 1746.

S^{r}

By all the Charters of the English Colonies in North America the British Crown is not Seised of any lands near the River of S^{t} Lawrence. Therefore the French have openly taken possession of the South East Side of it from the mouth of the river to Crown Point, and have a right to hold it in peace. But as they are troublesom neighbours & daily growing in power; they may finally subdue the English, & Command the whole; unless they are Speedily Confined only to the North west Side; that y^{a} River may be a Natural boundary between us, & barrier agst them. For the Securiing of his Majesties Dominions here I would have that matter as Soon as possible fully represented to his Maj^{sty} And I would have it done by Connecti(cut) first for the honour of my

[17] Trumbull's History of Connecticut, 2, 456, 457.

Native Countrey, then because, if they know they depend upon no changeable ministers of State, nextly they will be readily & Chearfully Joined by all new-England, And will finally reap great Profit & advantage by it. By the Stat. 13. George 2d Intitled an Act to Encourage the American Trade, Scooners to enter into his maj^ties^ Service. It is enacted that the King during any war May grant Societies to Join in any Expedition by Sea or land in America, to take or destroy any ships goods Settlements harbours lands or fortifications of the Enemy, And assure to them the property of what they take & all the profits thereof under such regulations as the King shall think fit: & afterwards confirm it to them.

Upon this Stat. I advise that y^or^ honour with the advice of y^r^ Assistants in behalf of Connecticut, with the Concurrence of such other New England Colonies as will Join with you Immediately prefer A Petition to his Majesty to Grant you such Charter Commission or grant as shall Enable you to take all the forts settlements & lands of y^e^ French on the East & South Sides of S^t^ Lawrence's River from the Lake of Onontario to the Main Ocean, not included in any former Letters Patents from the British Crown; to be Shired & Divided between those Colonies in proportion to the men they shall Severally furnish & send upon the Expedition; to be settled & improved by their respective Inhabitants, as those Governments shall severally for their respective shares Order & Grant.

If you send by the first ships to England, you may have returns early enough to do every thing next year, & what will be done before? If you keep a good lookout you may know whether your friends at home have alarm^d^ the French against you or not. And you will have it in your power to Choose your own opportunity & surprize them at last. S^r^ I am

Y^or^ hon^s^ most humble Serv^t^
JN^O^ READ

To the Hon^ble^ Jonathan Law Esq^r^ Governour of Connecticut.[18]

The serious defeat of a royal force in Nova Scotia, which came a few weeks later, destroyed the hope of enlarging New England in the manner thus proposed.

In June 1654, the Governor called a special session of

[18] Connecticut Historical Society Collections, XV, 4–6.

the General Court of the Jurisdiction of New Haven. The object was to secure the aid of the English colonies against the Dutch and French in case of hostilities. Two plenipotentiaries were immediately sent to Boston with the following instructions:

You are wth all convenient speede to trauell to Boston in y^{e} Massachusts, and there to treate wth Major Sedgwick and Capt. John Leueret, appointed and betrusted by his Highnes, Oliuer, Lord Protector of England, Scotland and Ireland, and wth others as shall be deputed for the treaty from the other three jurisdictions, or any of them, in a service both for the Coñon wealth of England, and for these colonies, according to such coñission and instructions as they haue receiued, and shall pduce and shew from the State of England, wherein though they yet know not how the affaire shall be managed, nor what may be required or expected of them, yet they are ready, according to their abillitie and meanes, to afford their best assistance, both in men and pvissions. The pticulars they refer to yo^{r} consideration and judgment.

In witness whereof I subscribe, this 9th day of June, 1654.

Francis Newman, Secret. and by order of y^{e} Gen: Court.

Instructions for M^{r} William Leete and M^{r} Thomas Jordan, sent as agents for this Jurisdiction to treate, &c., as their Comission bearing date with these presents will more fully shew.

The Comission^{rs} for the three other colonies did in September last, vpon their best considerations, declare, that the Massachusts colony in denying to act (as was expresly in the articles) according to the determination of seuen of y^{e} comission^{rs}, (though they neither charged nor objected any vnrighteousness in their conclusions,) had actually broken their couenant of confederation, and though in Nouember last these two colonies answered the letter and queries sent from the Gen. Court of the Massachusts, the haue not to this day recieued any returne; yet vpon a letter and directions receiued from his Highnes, Oliuer, Lord Protector of England, Scotland & Ireland, they send you as their agents to treate wth Major Sedgwicke, Capt. Jn^{o} Leuerit, & wth such others as shall be deputed for the said treaty from the other three colonies, or any of them.

1. If vpon sight of the coñission and instructions from the authority of England, the foure colonies concurr to afford assistance in the service ppounded, this colony will readily joyne. If

the Massachusets vpon any consideration refuse or delay, (w^ch wee hope they will not,) yet wee shall readily joyne w^th the other two colonies, or w^th Connecticut, yea this jurisdict' alone, (if others differr in judgm^t,) would improue the vtmost of their abillity to manifest their due submission to the authority of England, and readines in a service wherein all New-England, at least these western colonies, are so much concerned.

2. Considering that a little delay may much increase the difficulty of the worke, if it doe not vtterly ouerthrow it, you will by no meanes admitt any long consultation or dispute, but vse all possible expedition, according to the Lord Protectors order, w^ch (through the blessing of God,) may much further the success; and when you haue considered & agreed, what numbers of men, and what quantity of pvissions of all sorts each colony is to furnish, you will, by some trusty and speedy messenger, giue timely information, that preparations may be here made accordingly.

3. For the shipping sent from England, or vessells belonging to any of these parts, it may fall vnder consideration, whether if part bee sent w^thout the Island, & part come w^thin, the service against the enemie and y^e securitie of these plantations may not bee best carryed on and provided for.

By order of the Generall Court, the 9^th^ of June, 1654.

Francis Newman, Secret.[19]

In 1757 a large sum of money was due from England to Connecticut. The General Court authorized in October of that year that

whenever any paymaster of the moneys due on settlement of any pay-roll of any of the companies, either in the militia in the late alarm or of the troops of this Colony in present service, having obtained order on the Treasurer therefor and the same exhibited for payment, the Treasurer may on sight make out orders on the constables collectors of the public tax in such town or towns whence the soldiers named in such roll were collected or that may be most convenient to facilitate the payment, payable to such paymaster or his order in such town or towns, to the amount of such pay-roll or such part thereof as shall be needful, which orders such collectors are directed by paying or discounting with such receiver to the amount, to answer in such manner as

[19] New Haven Colonial Records, 1653–1665, 101, 102.

may be found most practicable and satisfactory. And the Treasurer is also directed that of all such orders to keep clear accounts, and see that each constable either by monies or return of such orders duly discharged seasonably settle and make up his with him according to law.

As the continuance and formidable aspect of the war leaves us no reason to expect any long exemption from a further share therein: As well-united councils, a preconcerted adjustment of the respective quotas and measures for duly applying the combin'd force, especially of the militia, of all those contributory therein on any sudden or extraordinary emergence is manifestly of importance to prevent dissatisfaction and delay; and as we may, not without reason, expect that some meeting, at least, to consist of New York and the four New England governments, may by them or some of them or Lord Loudoun himself be ere long proposed and recommended to the abovementioned as well as other proper and necessary ends and purposes: Whereupon, and that nothing on the part of this Colony be wanting to the execution of so serviceable a design, this Assembly do appoint Ebenezer Silliman, Jonathan Trumble and William Wolcott, Esq[rs], to be Commissioners in behalf of this Colony with such gentlemen as by said other governments may be duly appointed, at time and place to be ascertained, to meet and confer, as well touching the matters above specified as of such further matters as by his Lordship may be suggested or during their conference be judged proper and expedient to be treated of; and the whole result of such their conference and the various proposals and matters therein made and agitated to lay before this Assembly for their further order and resolution thereon. And his Honour the Governor is desired, on advice received of such general convention appointed, to commission said gentlemen accordingly.[20]

This writing contemplates a sort of union between New York and New England for military purposes.

Connecticut did her full share toward the supremacy of English over French colonization in the 18th century. The questions in dispute were serious and the results important. Connecticut took a leading part in the French wars, as she did in the war against Holland of

[20] Colon. Rec. of Conn. 1757–1762: 63–64.

an earlier date. Her contributions of men and money from 1755 to 1758 are set out in the following address of Governor Fitch:

A Short Narrative of the General Conduct of Connecticut Relating to the War In and Since the year 1755.

In the beginning of March 1755 was Communicated to the Gov^{r} of Connicut from Gov^{r} Shirley a General Plan of an Expedition for Removing the French Encroachments at Crown Point and on the Iroquois Lake to be carryed on by the four New England Governments New York and New Jersey while the King's Forces were to be Employed in other Parts of his Dominions in America for the same Purpose viz. on the Ohio Lake Ontario &c. in which Plan it was proposed that Connecticut Should Raise Equip subsist and pay a thousand men

That upon this Application the Assembly being forthwith ordered to Meet and being Met on the 13th of March Chearfully came into a Resolve to Raise the Number proposed and make Provision accordingly and having Raised them Sent them into the Service. But fearing the Army Raised for this Service might prove too weak to Render the Design Effectual the Assembly came into a further Resolve that five hundred More should be Raised for a Reinforcement in Case there should after appear a Necessity of them.

N. B. The Government of New York whose proportion on the aforesaid Plan was but Eight hundred Applyed to Connecticut for Liberty to Raise five hundred of them in this Colony and by the Resolve of the Assembly had Liberty to Raise three hundred which were Raised Accordingly, tho' these were Raised Subsisted &c. at the Expence of New York yet Drawing three hundred Labouring Men out of Connecticut some of Whom were Lost must be a weakening to that Colony in Proportion

That in the Month of August 1755 upon Intelligence Rec^{d} from Major General Lyman of the Enemys Collecting and the Danger there was of our Armys being over powered by Superior Numbers the Gov^{r} of Connecticut forthwith gave out orders and Raised the aforesaid five Hundred Men. That while they were collecting the Assembly being called together and Receiving further Intelligence Respecting the Strength & Approach of the Enemy ordered fifteen Hundred Men more forthwith to be Raised to Reinforce the Army and if possible to Render the Expedition

Effectual which with the 500 were all Raised (Except in some Instancies there were a few Deficiencies) and Sent forward in a few Days.

While these matters pushed forward with Surprizing Dispatch in Connecticut the Government of New York concluding it to be impractical for that Province to Raise a Reinforcement in Season for Service Determined not to Attempt it but in Regard of the great Expence Connecticut would be put to by the Addition of 2000 Men to the Army made a grant of £8000 New York Currency to Connecticut towards Defraying the Expence of the Reinforcements provided Connecticut Sent the Number Voted. Which Sum has been Honestly paid and was some Small Alleviation of the Burden that lay upon Connecticut

That while the Reinforcements were collecting and Marching the Battle on the 8th of September 1755 happened at the Lake wherein the French Who began the Attack were Defeated

That soon after this Victory Reinforcements came in from this and the other New England Governments yet altho our Army was Superior as was generally Supposed to the Enemy and the most of the officers were for going forward and taking the Advantage of the Success then lately obtained The General so Conducted that nothing further was Attempted Save the Constructing Fort W: Henry in which the troops from Connecticut performed near one half of the whole Labour.

These Methods accasioned the Expence of Garrisoning two Forts thro' the Winter in which Connecticut bore their full proportion both in Men Subsistance and other Expence the rest of the Troops Returning Home the beginning of Winter. The Expence of this year amounted to about

That in December 1755 the Kings Commander in Chief in North America pursuant to his Majestys Instructions to him called a Council of Governors and Field officers at New York wherein a plan of Operations for the Ensuing Campaign was proposed and Agreed upon and Advised to, in which Among other things it was advised that an Expedition against Crown Point should be carryed on and that the Several Provinces were to be applyed to by the Commander in Chief to Raise for that Purpose ten thousand Men and to proceed while another Expedition was to be carryed on upon Lake Ontario by the Kings Regular Forces, to consist of about Six thousand.

That the Number Proposed to and Requested to be Raised by Connecticut as its Proportion of the ten thousand Men for the

Crown Point Expedition was 1250 upon which the Assembly being called together in the Beginning of the year 1756 approved of the Plan of Operations Recommended by the Council held in New York and not only agreed to Raise the 1250 proposed but being Desirous to have the Design carried on to Effect and Supposing the Southern Provinces which had been very Slack in such Services would likely fail of Raising their Proportion of Men and by that Means if Dependance should be had on those Provinces the whole Design might be Rendered abortive for want of Strength. Also Resolved to Double the Number proposed for Connecticut and agreed to Raise 2500 Men and Recommended it to the other Northern Governm^{ts} to do the Same. so that one half of the Men that were to be Raised in Connecticut were Really Raised for to make up the Southern Provinces Quota.

That these forces were Raised and Sent into the Service under the Command of General Winslow and while they were making preparations and geting forward under the general Direction of M^{r} Shirley the Kings then Commander in Chief A New Commander in Chief viz. General Webb Arived and before he took upon him the Command he was Succeeded by General Abercromby and not Long after that he was Succeeded by the Earl of Loudoun with whom Arrived a Declaration of War. The Command being Shifted so often and all affairs being in an unsetled Posture that Season was Spent without Making any further Progress towards the Enemy and all this happened without any Fault of the Provinces and to their very great Expence, and in the beginning of Winter their Troops Returned Home.

The Expence Connecticut was at this year amounts to about

That in the Winter of 1757 The Earl of Loudoun Commander of his Majestys Forces in America called upon the Governors and Commissioners from the four New England Governments to meet him in Boston to consider what aid they should furnish him in the Ensuing Campaign; and Acquainted them he should Request four thousand men from those Governments and after Diverse Debates and Consultations finally he proposed the Number Each Government should furnish and therein he Demanded 1400 Men from Connecticut. at the same Time the Plan of Operations was kept Secret Even from the Governors and Commissioners themselves Connecticut tho' Burdened with too large a Proportion agreed to Raise and furnish that Number, five hundred of whom were by the Earl of Loudoun Sent to Number 4 on Connecticut River under the command of L^{t} Col. Whiting. The other Nine

Hundred were ordered to Fort Edward Where they Respectively Spent that Summer without any further Progress against the Enemy.

And as the whole Direction of their Service was under the Kings Officers no Blame could fall on the Provinces tho' a very great Expence was Occasioned thereby without any general advantage.

In this Time Fort William Henry was attacked and taken by the Enemy. Three days after the Attack was begun the Governor of Connecticut Received a Letter from General Webb, wherein he Signifyed the Enemy were approaching but in what number and at what Distance was not Said he Requested a Certain Reinforcement which were on the same Day ordered to be Detached and March for that purpose, on the Next Day the Governor Received further Intelligence with Application for all the Force that Could be sent and he then forthwith ordered a fourth Part of the Militia of the Colony and half of one of the Largest Regiments Including those ordered the Day before to march to the Relief of Fort W: Henry The whole were Collected and Marched with Surprizing Expedition. But to our Surprize and Disappointment the Fort was Sundred Even before the Militia could any of them get to Fort Edward and Even before the most Remote Could possibly March out of the Colony Altho the greater Part for Expedition went on Horse back and the Enemy soon Drawing off the Militia Returned. This particular unprofitable and Unsuccessful attempt to afford Relief became Abortive not thro' any Default or Neglect in the Colony and cost it about twelve thousand pounds or more.

The Troops sent out in the Spring Remained in that in active Service (if I may so say) till Winter and then we could not get them Released without furnishing 280 Rangers out of them to tarry thro the Winter which Lord Loudoun Demanded and the Government were forced to grant tho the Expediency of that Requisition the Government could never see nevertheless it caused a great Addition to the heavy Burdens before bro't on the Colony

The Expence of this year amounts to

That in the Beginning of March 1758 Letters arrived to the several Governments from the Secretary of State Signifying his Majestys Intentions of Making more Vigirous and Extensive Operations for Repairing the Losses of the late inactive and unsuccessful Campaigns with Instructions to the Governments to Raise as Many Men as the Number of their Inhabitants would

Allow, for Invading Canada and Carrying War into the Heart of the Enemy's Possessions

That the Colony of Connecticut almost worn out and Discouraged by three Preceeding unsuccessful Campaigne and involved in Debt Seventy or Eighty thousand Pounds Spent in past Service Over and above all that could Possibly be Raised by the Government in those years and having no fund in the Treasury yet being Encouraged by having so grand a Plan opened with such Prospects of its being carryed on to Effect against the Common Enemy the Colony being agen Roused and Animated to Exert itself in his Majestys Service, with great Expectations that in this year they should be Instrumental in Repairing the Losses of forner years and so far put it out of the Enemys Power to Annoy us that the Country might probably Enjoy Rest and Peace.

And thereupon this Colony agreed to Raise five thousand Men for this years Service most of Which were Raised and are gone into the Service and are there Detained but alas it is to be fared to Little Purpose more than the Loss of Many Lives and to the great Expence of the Government But what Respects the past present and future of this years Campaign must be omitted till further Light shall Transpire, (Indorsed) Gov^{r} Fitchs brief Acc^{o} of Proceedings Respecting y^{e} War. Colony Memorials 1755.[21]

The foregoing Address was reinforced by the following order of June 7, 1755. It will be observed that this paper describes the war as being waged in the "Protestant Cause."

Address and Declaration to the Troops.

Thomas Fitch Esq^{r} Governor & Comander in Chief in & over his Majesty's English Colony of Connecticut in New England in America.

To the Forces raised by the Colony aforesaid and generously engaged in the Expedition againt Canada.

Whereas in the Course of divine Providence you (my dear Countrymen) and many other of your fellow Subjects are called forth to War, with the Enemy, (The perfideous, inveterate Enemies of your Nation, and the cruel Destroyers of your Country) for the Defence Protection and Security of your native Land, The invaluable Rights, Liberties and Religion of British Sub-

[21] Connecticut Historical Society Collections, XVII, 344–350.

jects, And the protestant Cause, In which noble and important Undertaking, it highly behooves you, as you tender the Favour, and Blessing, the Presence and Protection of Almighty God, to go forth in his Name and Fear, And in an Especial Manner to refrain from those Evils, which incense his Anger, and may bring down his awful Vengeance upon You, to your own Destruction, and the Overthrow of that grand & most interesting Affair intrusted with you, by your King (our most gracious Sovereign) And your anxious, distressed, bleeding Country, to whom you are bound to be faithful by every affecting Obligation, and the most solemn engagements

I do therefore by and with the Advice of his Majesty's Council in this Colony, And at the Desire of the Representatives in General Court assembled, hereby strictly charge and require, and with the most serious and Tender Concern, earnestly exhort all of you, both Officers and Privates, (while your christian Friends at Home I trust will be dayly addressing the Throne of Mercy on your Behalf) carefully and religeously to abstain from and avoid all profane swearing, cursing and other evil speaking, Intemperance Unrighteousness and other immoral and dissolute Practices (too frequent in Camps) and to pay a reverential Regard to the Sabbath of the Lord and the Worship of God (the great Creator and Preserver of Men), And to behave in all Respects as becometh Soldiers professing the Religion of Jesus Christ

And I do also hereby recomend it to and charge each and every Officer in their respective Stations, both by Example and every other proper Measure to encourage promote and enforce Observance in the abovementioned important Points among the Soldiery.

And particularly to take the most effectual Care that the Articles of War relating to divine Service and for the punishment of unlawful Oath, Execrations & other Immoralities be duly observed And the pious Ends thereof attained, And I do hereby order and direct that each Officer be furnished with a printed Copy of this Address and Declaration, And that the same be published to each Regiment and Company as soon as may be, and as often afterwards as the said Officers may judge expedient

Given under my Hand at the Council Chamber in Hartford this 7th Day of June, in the 31st year of the Reign of jis Majesty George the Second King of Great Britain &c Annoq Dom: 1758[22]

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[22] Connecticut Historical Society Collections, XVII, 343, 344.

That every important step in human progress is the result of many causes, some near and some remote, is one of those truths that have gained new strength from the contributions of modern scholarship. An eminent historian has thus applied this proposition to the American Revolution:

> During our whole colonial period the forces that worked for divergence from the mother country were active. The habits of a people growing up in a new country, three thousand miles in distance and several months in time from the ruling state, the diversity of religious opinion that had driven so many of them from home and that continued to increase, the conflicting economic interests of England and her American colonies, were all permanent influences that tended to separation. Independence sooner or later was natural because of the difference of our institutions, possibly because of our size and numbers, inevitable because of the stolid and narrow-minded type of government of England. American independence, as we look on it now, was not the creation of Washington and the 'Fathers,' but a necessary result of the divergence of the two countries.[23]

It is questionable if the character of English government can be fairly described as of the "stolid and narrow-minded type," when the United States came into being. Because George III was stolid and narrow-minded it is hardly fair to attribute the same characteristics to his people. Certainly they have been anything but narrow-minded or stolid during the twentieth century, and if we were to ask which nation was most suited to democracy, we could hardly doubt that England has been the freest.

One of the reasons contributing to the fall of the Stuart dynasty was its attitude in favor of the nobility

[23] The American Historical Review, Vol. XXIX, 231, 234, Cheyney, *Law in History.*

and gentry as distinguished from the common people. It had been the law ever since the first year of the reign of Edward the First, that any freeholder of the realm (including Wales) owning real estate worth forty pounds a year could be summoned to Court to receive the order of knighthood. This was a statutory right. It was one of the many things in which money was preferred to merit, and the admission fees to knighthood gradually became a considerable source of the royal income. Forty pounds sterling was deemed the equivalent in value of about 640 acres of land. One of the first things which the parliament of England under Cromwell did was to repeal the statute which was its foundation.

The relations of the Colonies to the Crown were somewhat complicated. There was the royal prerogative to be interpreted by the Crown for itself, coming down through the Tudors and the Stuarts; there was the King and Council, which signified a standing board with jurisdiction of appeals from Colonial courts and legislative bodies. Of these two sources of jurisdiction the former was by far the most important, though constantly tending to diminish in practical power. The King almost never sat with the Council, but he was always by legal fiction considered as sitting with them. Appeals could be taken from the King and Council to the King. The courtesies of the realm were in his hands, and a Colonial official could appeal from an order of Colonial authorities to the King without notice to the King and Council, in case the King thought proper to receive it. It was customary also to conduct ceremonial correspondence on such matters as the accession of a new sovereign. The following are specimens of the

papers that might naturally pass between subject and sovereign.

In 1666 King Charles wrote to the Colony of Connecticut a letter which was prized highly as an expression of the royal opinion. It is short, and we quote it in full:

Charles R.

Trusty and well-beloved, we greet you well, having received so full and satisfactory an account from our commissioners both of the good reception you have given them, and also of your dutifulness and obedience to us, we cannot but let you know how much we are pleased therewith, judging that respect of yours towards our officers to be the true and natural fruit which demonstrates what fidelity and affection towards us is rooted in your hearts, and although your carriage doth of itself most justly deserve our praise and approbation, yet it seems to be set off with the more lustre by the contrary deportment of the colony of the Massachusetts, as if by their refractoriness they had designed to recommend and heighten the merit of your compliance with our directions for the peaceable and good government of our subjects in those parts; you may therefore assure yourselves that we shall never be unmindful of this your loyal and dutiful behavior, but shall, upon all occasions, take notice of it to your advantage, promising you our constant protection and royal favor, in all things that may concern your safety, peace and welfare; and so we bid you farewel. Given at our court at Whitehall the 10th day of April 1666, in the eighteenth year of our reign. By his majesty's command.

William Morrice.

Subscribed to our trusty and well-beloved the governor and council of the colony of Connecticut, in New-England.

as the security of the interest of each colony, within itself in ways of righteousness and peace, and all, and every of the said colonies from the Indians and other enemies, they did judge it to be their bounden duty, for mutual strength and helpfulness, for the future in all their said concernments to enter into a consociation among themselves, thereupon fully agreed and concluded by and between the parties or jurisdictions, in divers and sundry articles, and at last ratified as a perpetual confederation by their

several subscriptions; Whereunto we conceived ourselves bound to adhere until with satisfaction to our judgments and consciences, we see our duty, with the unanimous consent of the confederates orderly to recede leaving the issue unto the most wise and righteous God. As for the patent, upon your petition, granted you by his majesty, as Connecticut colony, so far and in that sense we object not against it, much less against his majesty's act in so doing, the same being a real encouragement to other of his subjects to obtain the like favor, upon their humble petition to his royal highness, in the protection of their persons and purchased rights and interests, is also a ground of hope to us. But if the line of your patent doth circumscribe this colony by your contrivement, without our cognizance or consent, or regard to the said confederation, on your parts, we have, and must still testify against it, as not consistent (in our judgment) with brotherly love, righteousness and peace . . .[24]

The letter then refers to Mr. John Winthrop and his return from England, where he had gone to obtain the charter which he had been so influential in procuring, as well as that of Rhode Island, granted by the help of England.

On June 7, 1661, Connecticut sent a petition from the General Court at Hartford to Charles II, asking for a grant. It began with the statement:

That your Petitioners have not had for many years past, since their possession and inhabiting these western and innland parts of this wilderness, any opportunity (by reason of the calamities of the late sad times) to look for and obtain such grant by letters pattents, from your excellent Majesty, the Sovreign Lord and King, as might assure them of such liberties and priviledges and sufficient power, as might encourage them to go on through all difficulties, hazzards, and expences, in so great a work of plantation, in a place so remoate from the christian world, and a desert so difficulty subdued, and no way improveable for subsistence, but by great cost and hard labour with much patience and cares; and whereas besides, the great charge that hath been expended by our Fathers, and some of their associates yett surviving, about the

[24] Trumbull: History of Conn. Appendix, XI.

purchass, building, fortifying and other matters of cultering and improveing to a condition of safety and subsistence in the places of our present abode amonge the Heathen, whereby there is a considerable, and a reall addition to the honnour and enlargements of his Majesties dominion, by the sole disbursments of his Majesties subjects here, of their own propper Estates; They have laid out a very great summ for the purchassing a Jurisdiction Right, of Mr. George Fenwick, which they were given to understand was derived from true Royall authority, by Letters Pattents to certain Lords and Gentlemen therein nominated; a copy whereof was produced before the commissioners of the colonys, and approved by them, as appears by their Records, a coppy whereof is ready to be presented at your Majesties command: though either by fire, at an house, where it had been sometimes kept, or some other accident, is now lost, with which your poor subjects were rather willing to content themselves within those afflicting times, then to look for power or priviledges from any then their lawfull Prince and Sovreign.

May it therefore please your most gracious and Excellent Majestie to confer upon your humble Petitioners (who unanimously do implore your Highness favour and Grace therein) those liberties, rights, authoritys and priviledges which were granted by the aforementioned Letters Pattents, to certain Lords and Gent. so purchased as aforesaid, or which were enjoyed from those Letters Pattents, granted to the Massachusetts Plantation by our Fathers, and some of us yett surviving when there, in our beginnings inhabiting; and upon which those large incouragements, liberties and priviledges, so great a transplantation from our dear England, was undertaken (and supposed to be yett our inheritance, till the running of that western line, the bounded limits of those Letters Pattents did since our removall thence determine our lott to be fallen without the limits of that so bounded authority). May it please your Majestie graciously to bestow upon your humble suppliants such Royall munificence according to the tenour of a draft or instrument, which is ready here to be tendered at your Gracious order.

And whereas besides those many other great disbursments as aforesaid, in prosecution of this wilderness work, your poor Petitioners were forced to maintain a warr against one nation of the Heathens that did much interrupt the beginnings of your servants, by many bloody and hostile acts, whereby divers of our dear countrymen were treacherously destroyed, and have also

been ever since, and are still at much charge in keeping such a correspondence of peace and amity, with the divers sorts of the heathen nations that are round about your plantations, thus far extended into the bowells of the country, besides the maintenance of all publick charges for church and civill affairs, which are very great, in respect of our poverty: May it please your most Excellent Majestie, out of your princely bounty to grant our immunity from customes as may encourage the merchants, to supply our necessities, in such comodities as may be wanting here, for which we have neither silver nor gold to pay, but the supply in that kind may inable in due time to search the bowells of the earth for some good minerals, whereof there seem to be fair probabilities, or produce some such other staple comodities, as may in future time opperate to be good effects of y'r Majesties goodness and bounty. If your poor colony may find this Gracious acceptance with your Majestie, as to grant their humble desires, whereby they may be incouraged to goe on carefully and strenuously in their plantation business, in hope of a comfortable settlement for themselves, and their posterity, that under your Royall Protection, they may prosper in this desert, they shall, as is their acknowledged duty, ever pray for your great tranquility and perpetuall happiness, and humbly craveing leave they subscribe themselves, your Majesties Loyall Subjects and Servants.[25]

In 1664 a commission of Visitation was appointed by the Crown, to examine into certain complaints made regarding acts of civil government. One of these complaints was that the Colonial government allowed traitors to enter and to remain in their territory. The answer to this was that "they knew of no persons attainted of high treason, who had arrived here, except Mr. Whaley and Mr. Goffe, and they before the act of parliament, and they departed this jurisdiction the February following, and a proclamation against them coming soon after by way of Barbados, the Court sent two gentlemen, Mr. Kellond and Mr. Kirke, after them to Connecticut and New-Haven, to apprehend them." [26]

[25] Hinman's Antiquities, p. 38–40.
[26] Hutchinson: History of Massachusetts Bay, p. 243.

Of the judges of King Charles I, three fled from England at the Restoration, General Whalley, General Goffe, and Colonel Dixwell, who changed his name to James Davids. General Whalley and General Goffe were sheltered by friends who dug a deep cellar in their house at South Hadley, Mass., for this purpose. They removed to this abode shortly after the king's execution. Their story has been so often told that it seems unnecessary to repeat it.

Under the same date a letter was sent from the Governor and General Court to Lord Say and Seal, who had been for some years the spokesman of the Puritans on the ground, and also for those interested in London. The following is a copy:

Right Honourable—The former encouragements that our Fathers and some of their yett surviving associates received from your Honour, to transplant themselves and families into these inland parts of this vast wilderness, where (as we have been given to understand) your Honnor was, and as we conceive are still interested by value of Pattent power, and authority, doth not only perswade us, but assure us of your patronage and favour, in that which may come within your power, wherein our comfort and settlement, and the well being of our posterity, and the whole colony, both in civill and Ecclestiack pollicie is deeply concerned. Honourable Sir, nott long after that some persons of noate, we forbear to recite, had settled upon this River of Connecticott, and some Plantations up the River were possessed, and in some measure improved; Mr. George Fenwick took possession of Saybrook Fort, there resideing for certain or severall years; at length he was moved for ends best known to himself to returne to England, and thereupon propounded by himself, or agent, the sale of the Fort, with the Housing there, and severall appurtenances, together with all the Lands on the River, and so to the Narragansett Bay, with jurisdiction power to this Colony, which was exceedingly opposed by severall amongst us, whom some of us have heard to affirm that such a thing would be very distastfull to your Honour, with the rest of the noble Pattentees, who had very

bountifull intentions to this Colony, nevertheless, tho there was a stopp for the present yett in some short time, (God removeing some from us by death, that were interested in the hearts and affections of severall of those Nobles and Gent. the Pattentees in England) the business of purchase was revived by Mr. Fenwick, and expressions to this purpose given out by him or his agents, or both, that he had power to dispose of the premises, the rest of the Pattentees deserting, it fell into his hands by agreement; and in case the Towns on the River, refused to comply with such terms as he proposed for the purchasing of the said Fort, etc., itt was frequently reported that he proposed either to impose customes on the River, or make sale thereof to the Dutch, our noxious neighbours, at last for our peace and settlement and security (as we hoped) we made by our Committee, an agreement with the said Mr. Fenwick, a coppie whereof is ready to be presented unto your Honnour, which cost this River, one thousand six hundred pounds or thereabouts, wherein your Honnour may see the great abuse that we received at Mr. Fenwicks hand, receiving a vast sum from a poor people, and we scarcely att all advantaged thereby; nay we judge our condition worse then if we had contented ourselves with the patronage of the grand Pattentees, for we have not so much as a coppy of a Pattent to secure our standing as a comonwealth, nor to ensure us for the continuance of our rights and priviledges and immunities, which we thought the jurisdiction power and authority which Mr. Fenwick had engaged to us, and we paid for at a dear rate, nor any thing under his hand to engage him and his heirs, to the performance of that which was aimed at and intended in our purchase, the lands up the River for a long tract, the Massachusetts Colony doth challenge, and have run the line, which as they say, falls into one of our Towns; on the other side towards Narragansett, we know not how to claime, being destitute of Pattent and a coppie to decide the bounds. Be pleased, noble Sir to considder our condition, who have taken upon us this boldness to address his Majestie, our Sovreigne Lord, and to petition his Grace and favour towards us, in granting us the continuance of his protection, and the continuance of those priviledges and immunities, that we have hitherto enjoyed in this remote western part of the world; and likewise for a Pattent, whereby we may be encouraged and strengthened in our proceedings. Right Honnourable, our humble request to yourself is, that you would be pleased to countenance our enterprize, and so farr favour us,

as to councell and advise our agent who is to Represent this poor Colony, and to act in our behalfe, John Winthrop, Esqr., our Honnoured Governour, whom we have commissioned and also directed to await your Honnours pleasure, for advise and counsell, both respecting our Petition for the King's Majestie, as also respecting the case forementioned, that if there be any relief for us, we may not lose such a considerable sum of money, and be exposed to further expence for the obtaining of a Pattent. If we may find this favour with your Honnour to afford your advice and counsell and hopefulness to bring to pass our desiers, we shall still acknowledge your enlarged bounty and favourable respect to us and ours, and ever pray an inundation of mercies may flow in upon your Lordship from the author and fountain of blessing, with all due respect, we subscribe Sr your Lordships Humble Servants.

The Generall Assembly of the Colony of Connecticut, pr, their Order,

Daniel Clark, Secry.

Dated June 7th, 1661.

On April 26, 1664, a letter was sent by Charles II. to Richard Nicolls, Sir Robert Carr, George Cartright and Samuel Maverick. The expedition commissioned by this letter took the form of a commission of visitation. This was issued because differences and disputes had arisen

upon the limits and bounds of theirs severall charters and jurisdictions, whereby unneighbourly and unbrotherly contentions have and may arise, to the damage and discreditt of the English interests; and thatt all our good subjects, residing there, and being planters, is within the severall coloney's do nott enjoy the liberty and priviledges granted to them by our severall charters; upon confidence and assurance of which, they transported themselves and their estates into those partes, and we haveing received some addresses from the great men and natives of those countreys, in which they complayne of breach of fayth and acts of violence and injustice, which they have been forced to undergoe from our subjects, whereby not onely our government is traduced, but the reputation and credit of christian religion brought into prejudice and reproach with the Gentiles and inhabitants of those countreys,

who know not God, the reduction of whom, to the true knowledge and feare of God, is the most worthy and glorious end of all those Plantations, up all which motives, and as an evidence and manifestation of our fatherly affection towards all our subjects in those severall coloneys of New England, (that is to say) of the Massachusetts, Connecticutt, New Plimouth, Road Island and the Providence Plantations, and all other Plantations within that tract of land, known under the appelation of New England, and to the end we may be truely informed of the state and condition of our good subjects there, that soe we may the better know how to contribute to the farther improvement of their happynesse and prosperity; know ye therefore, that we reposeing speciall trust and confidence in the fidelitie, wisedome and circumspection of or trusty and well beloved Colonell Richard Nicolls, Sir Robert Carr, Knight, George Cartright Esquire and Samuell Mavericke, of or special grace certayn knowledge and mere motion, have made, ordayned, constituted and appoynted and by these presents doe make, ordayne, constitute and appoynt the sayd Colonell Richard Nicolls, Sir Robert Carr, Knight, George Cartwright and Samuel Maverick, our commissioners and doe hereby give and grant unto them, or any three or two of them, or of the survivors of them (of whom we will the sayd Colonell Richard Nicolls dureing his life shall be allwayes one) and upon equall division of opinions to have the casting and decisive voyce, in our name to vissitt all and every the severall colonyes aforesayd and allso all power and authority to heare and receive and to examine and determine all complaynts, appeals in all caues and matters, as well miletary as criminall and civill, and proceed in all things for the providing for and setleing the appeals and equity of the said countrey, according to their good and sound discressions, and to such instructions as they or the survivours of them have, or shall from time to time receive from us, in that behalfe, and from time to time as they shall finde expedient, to certify us or our privy councill of theire actings or proceedings, touching the premises and for the doeing thereof any other matter or thing relating thereunto, these presents or the enrolement thereof, shall be unto them, and every of them a sufficient warrant and discharge in that behalfe.—In witness whereof we have caused these our letters to be made pattents.

Given at our Court, at White Hall the 26th day of Aprill 1664, and in the sixteenth year of our Raigne.[27]

Barker.

[27] Hinman's Antiquities, p. 49–51.

Propositions made to the Governor and General Court of Connecticut, by his Majesties Commissioners.

We were commanded principally to recommend these things to you from his Majesty.

1. That all Householders inhabiting this colony to take the oath of allegiance, and that the administration of Justice be in his Majesty's name.

2. That all men of competent estates, and of civell conversation, (though of different judgment) may be admitted to be freemen, and have liberty to chuse, or be chosen officers, both Military and civill.

3. That all persons of civill lives, may freely enjoy the liberty of theire consciences, and the worship of God in that way which they thinke best; provided that this liberty tend not to the disturbance of the public, nor to the hindrance of the maintenance of ministers regularly chosen, in each respective parish, or township.

4. That all lawes and expressions in lawes, derogatory to his Majesty, if any such have been made, in these late troublesome times may be repealed, altered and taken off the fyle.

1. The General Court replied:—"that the administration of Justice hath been, is, and shall be, in his Majesty's name." . . . 2. "Our order for admission of Freemen is consonant with that proposition." 3. "Wee know not of any that hathe been troubled by vs for attending his conscience, and it is our care, that ye ministers of Gospel, . . . be duly mainteyned." 4. "Wee know not of any law or expressions in any law that is derogatory to his M'tie, amongst vs; but if any such be found, we count it our duty to repeale, alter it, and take it of the ffile, and this we attended upon the receipt of our Charter."

The King was apparently satisfied with this reply.

The next letter which passed between the King and the General Court of the Colony was dated August 28th, 1666, and mentioned that the French King had declared war against England. It required that they apply themselves

by all wayes and means to annoy, infest, damage and destroye the French as well as Dutch, in those parts, and such of their Colonyes and plantations as lye neare you, to reduce by the most speedy and effectuall wayes you could to our obedience, and more especially, that of the French in Canada, in all which wee enjoyned our Colony of the Massachusetts to joyne and correspond with you, wee doubt not but you have accordingly taken care for, and that in due time we shall receive a good accompt of your diligence and circumspection therein. . . . and, considering the more immediate danger to which the Barbadoes and other the Caribee Islands are exposed from the French, and that wee cannot as yet finde fitt to spare them those supplyes from hence that are necessary, the maine issue of the warre, being in the first place to be provided for, by a vigorous pursuit of those advantages it hath pleased God to give us against the body of our enemies strength neare home, wee cannot but in tendernesse to the safety of those our islands and plantations very effectually recommend it forthwith upon receipt hereof to consider with your neighbour Colony Massachusetts, to whome wee have likewise written, on this occasion of som fitt number of forces, such as you can best spare, to bee speedily sent to the reliefe and defence of the sayd Caribee Islands, under such able and discreet commanders as you shall finde fitt to choose . . . and particularly, wee think fitt for to repeat our former orders to you, that all such ships which shall come thence, be enjoyned to sail in considerable numbers for their common security, and that then, and ever dureing their stay there, it will be fitt some of the most experienced officers have authority given them to command the rest; wee have thought fitt hereby to authorize and impower you to do therein, what according to this or any other emergencies shall appear to you to bee most for the safety of our Colony, and navigation of our merchants, and further, that in all other matters relating to the jurisdiction of our most dear brother the Duke of York, our high Admirall, &c, you observe such orders and directions, as you shall from time to time receive from him, whom wee have commissioned to grant Letters of Marque, and generall reprisals against the shipps, goods and subjects of the States of the United Provinces, conformable to which our will and pleasure is, that you take and seize the shipps, vessells and goods, belonging to the said States, or any their subjects or inhabitants within their territories and to bring the same to judgement and condemnation according to the course of admiralty and laws of nations, and these our Letters

that you communicate to the rest of our Colonies your neighbours . . .[28]

The Royal Commissioners came to an agreement on certain matters with the Governor and Company of the Massachusetts Bay Colony in relation to the patent of Connecticut. The Commissioners came to a determination as to the boundaries, and the agreement was signed by John Winthrop, Matthew Allen, Nathan Gold, James Richards, and J. Winthrop (John Winthrop, Jr., afterward Governor of the Colony).

On February 22, 1666, the King wrote again to Connecticut with the intelligence of a declaration of war which had been made against France. This letter was as follows:

Trusty and well beloved, we greet you well: in former letters wee have directed you to put yourselves in the best way of defence you could, against the assaults of the French and Dutch, in those parts, and for the secureing the comeing of all shippes hither; towards which you may assure yourselves that wee cooperate from hence, with our accustomed care for the good of our subjects, and because the time offers itself more favourably now then ever, of delivering yourselves from those unquiet neighbours; wee have thought fitt to writt this unto you to authoriz you to apply yourselves with all your force and skill, to the reduceing of our obedience all islands and plantations, in those parts belonging to the French or Dutch nation; and especially that of Cannada, the effecting of which we must leave to your *prudence* and good conduct, since it is impossible at this distance to instruct you therein. And that our trusty and well beloved Sir Thomas Temple, our Governour of Nova Scotia, may the better correspond with you, and be assisting therein, wee have by our letters required him thereunto, herewith sending you our declaration of warre against France; which you are to publish in the manner you shall thinke fitt, takeing the substance thereof and

[28] Hinman's Antiquities, p. 66–70.

varying the forme of it, according to what hath been used in such cases. And soe we bid you farewell.

Given at our Court att White Hall, the 22d day of February, in the 18th year of our Reigne, 1665–6.

By his Majesties Command,

Arlington.

To our trusty and well beloved, the Governour and Councill, of our Colony of Connecticut, in New England.

In the Spring of 1673 the Dutch threatened Connecticut, and the General Court passed this vote:

Whereas there is at present a great appearance of danger towards this Colony by the approach of the Dutch, for our own safety and defence till the Gen^{ll} Court in October next, it is now ordered by this Court, that the Committee hereafter named, viz: the Gouerno^{r}, Dep^{t} Gouerno^{r} and Assistants, Capt^{n} Benj: Newbery, Mr. Giles Hamlin, Mr. Wm. Wadsworth, Capt^{n} Wm. Curtice, L^{nt} Wm. Fowler, L^{nt} Tho: Munson, are hereby impowered to act as the Grand Committee of this Colony in establishing and commissionating of military officers, in pressing of men, horses, ships, barques or other vessells, arms, ammunition, provision, carriages, or whatever they judg needful for o^{r} defence, and to manage, order and disspose of the Militiae of the Colony in the best way and mañer they can for o^{r} defence and safety. The Gouerno^{r} or in his absence the Dep^{t} Gouerno^{r} are hereby impowered by their sumons to convene the s^{d} Committee, whoe being assembled, the s^{d} Committee or the major part of them assembled are impowered as aforesaid.[29]

The late Dr. Hoadly, Secretary of the State, states in his edition of the Colonial Records, that

This was the first appointment, by the General Assembly, of a Grand Committee, or as it was afterwards termed, a Council of War, to whom, during the intervals between sessions of the Assembly were delegated nearly all the powers and authority usually vested in that body. Of this Council, the Governor, Deputy Governor and Assistants were always constituted members, and to

[29] Colonial Records of Connecticut, 1665–1677, 204, 205.

these were added from time to time, prominent military officers and influential citizens from the several counties.[30]

In 1675 (March 12) a standing committee of the Privy Council was created which brought the English colonies into much closer relations with the home government. This was called "the Lords of the Committee of Trade and Plantations."

The following is a copy of an Address to his Majesty Charles the 2d in 1679.

To the Kings most Excellent Majestie.

The most humble addresse of his truely loyall subjects and supplyants the Governor and Generall Assembly of his Ma'ties Colony of Connecticut, in New England holden at Hartford, October 9, 1679.

Dread Soveraigne—

Such and soe great have been your Mai'ties princely favoure towards us, especially in the graceous charter that your Ma'tie from your owne free motion and most ample grace) hath beene pleased to grant unto us, your poor yet loyall subjects in this your Colony, by which we are made very sencible of your Royall care concerning our Civill and Religious Liberties, as allso of the great and singular benefits that we have enjoyed by that eminent protection, all of which hath greatly encouraged and strongly moved us in conscience of duty, humbly and heartily to offer up o'r most sincere acknowledgments of your Ma'ties great goodness towards us in those forementioned Charter Bownds and priviledgses, which hath been no small engagement and encouragement to us in the defence of those parts, neither can we choose but reflect upon ourselves that in so many Halcion dayes of great immunities under your Gracious shadow we have not with bended knees testifyed o'r utmost thankfullness for such Royall favoure, but such have been the overtures by the death of o'r former Governour Winthrop and of late by the breaking forth of the war with the Barbarous heathen which hitherto retarded us but that we have now a hopefull issue through the help of Almighty God, and the benefit of your Royall countenance, for although as to o'r Estates

[30] *Ibid.*, 205, note.

we are much impoverished thereby, yet through Gods mercy, he hath given us o'r Enemy for a prey, whilst many of o'r neighbours round about us, have been made a desolation, and under God we must acknowledge o'rselves Debtor to your Ma'ties the greatness of your name and power with the aspect thereof towards us, being a Terror to o'r heathen adversaries, yet these troubles have been some hindrance to that o'r duty of acknowledging o'r thankfulness, but now being by your Ma'ties Letters dated at White Hall Feb'y 12, 1678–9 commanded to appear before your Ma'tie by o'r agents to make good o'r claym to the soyle and Government of the Narragancett Country, what can we say before so Gracious a King, but to beg that we may be admitted humbly to prostrate o'rselves at y'r Ma'ties feet with earnest beseeching your princely Grace in the full enjoyment of all the limits mentioned in o'r sayd Charter, and the priviledges thereof w'ch have by your Royall selfe been granted to us o'r Heirs and successors; and that o'r messenger Mr. William Harris (who is impowered by us according to your Majesties order aforesaid), may find favoure with your Ma'ties and who can informe fully the expences we have been at in the last Indian Warr, both as to money and loss of men as allso the advantages obtayned hath formerly been certifyed to the Right Hon'ble Earle Sunderland, by the Com'rs of Massachusetts, New Plimouth and this Colony from Boston, August last. Great S'r so great have been the assurances we have received of your princely favours to this your poore Colony, by your Gracious Letters, divers times sent us, that we cannot but be greatly encouraged to hope for a continuance of your Royall favoure unto us, and we shall as in duty we are bound apply o'rselves constantly to the Throne of Grace, for your Ma'ties long life and happy Reign over all your kingdoms and territories to the honor of the great God and the good of his church.

So beging your Majesties pardon, we subscribe o'rselves your Ma'ties true and loyall subjects, the Gob'r and General Assembly of your Ma'ties Colony of Connecticutt.

Wm. Leet, Gov'r,

In their names and pr their order,

John Allyn, Sec'ry.[31]

The following is a copy of an address to King William in 1680 which shows that a Governor may be a courtier.[32]

[31] Hinman's Antiquities, 114–116.

To the most high and mighty Prince William, by the Grace of God, of England, Scotland, France and Ireland, King, defender of the fayth, &c.

May it please your most excellent Ma'tie, we your dutifull and loyall subjects of your Colony of Connecticut in New England, doe most heartily rejoyce in, and congratulate your Ma'ties happy access unto the imperiall Throne of your Kingdomes and Territories thereunto belonging, and have long since, upon the joyful tydings, proclaymed your Ma'tie in the Colony, together with your Royall Consort, King and Queen of the said Kingdomes and Territories, in whose names we have ever since governed your Ma'ties good subjects here, haveing a Charter granted by King Charles the second of happy memory, and by reson of o'r not so rightly understanding the methods used in reference to the procedures against Charters under the late King, are brought under som uneasinesse, though we never resigned o'r Charter, nor was it condemned.

We doe therefore intreat your Ma'ties favour, to confirm in the injoyment and improvement of the liberties, privileges and properties granted in our charter, which we hope your Ma'tie of your princely grace and wisdom, will see meet to continue to vs.

And your Petitioners shall ever pray for your Ma'ties long and prosperous Reigne and the increase of your glory.

Robert Treat, Gov'r.

Pr order of the Councill,

John Allyn, Sec'ry.

Dated in Hartford, on Connecticut, in New England, Jan'y 3d, 1680.[32]

In 1682 came a Royal order to the Government and Council of Connecticut in relation to the Province of New Hampshire. In this the King is recorded as saying that

we have thought fitt to take the Government of our province of New Hampshire into our immediate care, and have for the better protection of the inhabitants thereof, constituted and appointed our trusty and well beloved Edward Cranfield, Esqr. our Lieut. Governour and Commander-in-Chief of that Province, . . . to

[32] Hinman's Antiquities, 188.

be ayding and assisting to the best of his powers and with the forces under his command, unto our loveing subjects of the neighbouring colonies within our dominions of New England, and perticularly to our colony of Connecticutt, in case of any insurrection of rebellion, or if any attempt or invasion of any of our enemies . . . we doe in the same manner expect and require that a mutual assistance be readily given by you and our said colony of Connecticutt, unto the said Edward Cranfield, and our good subjects inhabitating within the Government wherewith he is intrusted, if the like invasion or attempt shall at any time be made upon them by any people or nation whatsoever . . . that you afford them on such occasion such number of forces and other aid as the condition of our colony under your direction shall permitt . . .

This seems to create a kind of protectorate over Connecticut. The reciprocal duties thrown upon the Crown under this mandate would be of no benefit to Connecticut on account of the remoteness of New England as a whole from the Province of New Hampshire, and it does not appear that Connecticut was called upon afterwards to render services of that kind. It was doubtless seen that it would be a gratuity on the part of Connecticut people.

In 1680, in the annual returns to the Lords of Trade and Plantations, it was stated in regard to their relations with other colonies that they had neighborly correspondence with New Plymouth and Massachusetts, and that "since Sir Edmund Andross has come to York, our correspondence with him, is not like what it was with his predecessor in that Government; as for Rhoad Island, we have not as good correspondence with them as we desire." [33]

The reports made from time to time to the Crown by the Colonial authorities indicate that there was a good

[33] Hinman's Antiquities, p. 137–138.

deal of friction between the different colonies, and particularly in matters affecting the colony of Rhode Island and the Providence plantations.

In 1675 the Colony was engaged in a war against Philip, the Indian chief. Commissioned by the Duke of York, Sir Edmund Andros laid claim to all that part of Connecticut lying west of the Connecticut River, and backed by a strong naval force, demanded the surrender of the fort at Saybrook. The General Assembly, then in session at Hartford, strongly protested. On October 31, 1687, Andros entered Hartford to take possession of the charter. In 1692, an attempt was made by Col. Benjamin Fletcher, then Governor of New York, to enforce the powers of his commission from the British Government as commander of the militia of Connecticut.

On the 26th of October, Governor Fletcher came to Hartford while the assembly was in session, and in his majesty's name, demanded the submission of the militia to his command, as they would answer it to his majesty, and that they would give him a speedy reply, in two words, "yes" or "no." But the assembly boldly refused to surrender their chartered rights, intimating that the demand was subversive of their essential privileges. Among other things they state "that whoever commanded the persons in a colony would also command the purse, and be the governor of the colony; that there was such a connection between the civil authority, and the command of the militia, that the one could not subsist without the other." Allusion only can be made to the attempt of Governor Fletcher to have his commission read to the train bands of Hartford, of the beating of

the drums to drown the voice of the reader, of the command of silence by Governor Fletcher, and of the declaration addressed to him by Captain Wadsworth;—"If I am interrupted again, I will make the sun shine through you in a moment." The assembly were willing to *grant* to the king's officer such a portion of the militia as they should judge proper, but they were not willing that he should take any or all at his discretion. They insisted upon the right to judge what number and what persons, should be employed in the military service, and to select their officers. They were not willing to place the people under a military conscription to be enforced by the king's authority. They insisted on the supremacy of their own local laws.[34]

In 1688 Sir Edmund Andros received a commission authorizing him to annex New England to New York for purposes of government, and join with them several other colonies, including New Jersey.

He received instructions conformable to his commission, but with certain guaranties of a permanent character. From these instructions are taken the following proposals and orders:—

> And you are to communicate unto our said councill from time to time such and so many of our instructions as you shall find convenient for our service to be imparted unto them.
>
> And you are to permit the members of our councill to have and enjoy the freedom of debate and votes in all things to be debated by them. . . .
>
> And that we may always be informed of the names of persons fitt to supply the vacancies of our councill, you are to transmit unto us by one of our principall secretaries of state and to the Lords of our Privy Councill appointed a committee for Trade and

[34] Local Law in Connecticut, Wm. C. Fowler: New England Hist. and Gen. Register, Vol. 24, p. 41.

PAINTING OF CHARTER OAK TREE IN WHICH CONNECTICUT'S CHARTER WAS HIDDEN IN 1687. In Memorial Hall of the State Library, Hartford. Charles D'Wolf Brownell, Artist. Tree blown down, August 21, 1856.

Foreign Plantations with all convenient speed the names and characters of twelve persons, inhabitants of our said Territory, whom you shall esteem the best qualified for that trust, and so, from time to time, when any of them shall dye, depart out of our said Territory, or upon any other occasion, you are to supply the first number of twelve persons by nominating others to us in their stead. . . .

And if any lawes statutes and ordinances made and enacted by you and our councill or by the Commander in Cheif and councill of New-England for the time being shall at any time be disallowed or not approved, and so signified by us, our heirs or successors, under our or their sign manual and signet, or by order of our Privy Councill unto you, the said S^r^ Edmund, or the Commander in Cheif of our said Territory for the time being; then such and so many of them as shall be so disallowed and not approved shall from thenceforth cease determine and become void. . . .

And whereas there are great tracts of land within our said Territory and Dominion yet undisposed of, and other lands, tenements and hereditaments for which our royall confirmation may be wanting: We hereby authorize you to dispose of such land for a moderate Quit Rent, not under two shillings six pence for every hundred acres. . . .

You are to permit a liberty of conscience in matters of religion to all persons, so they be contented with a quiet and peaceable enjoyment of it. . . .

And we do hereby require and command that no man's life, member, freehold or goods be taken away but by established and known laws, not repugnant to, but as much as conveniently may be, agreeable to, the laws of our kingdom of England. . . .

And when any opportunity shall offer for purchasing great tracts of lands for us from the Indians for small sums, you are to use your discretion therein, and you shall judge of the convenience, prejudice or advantage that may arise unto us from the same. . . .

You are to give all due encouragement and invitation to merchants and others who shall bring trade unto our said Territory and in particular to the Royall African Company of England.

And you are to take care that there be no trading from our said Territory to any place or part in Africa within the charter of the Royall African Company; and you are not to suffer any shipps to be sent thither, without their leave and authority. . . .

You shall pass a law for the restraining of inhuman severity which by ill masters or overseers may be used toward the christian servants or slaves; wherein provision is to be made that the wilful killing of Indians and Negroes shall be punished with death, and a fitt penalty imposed for the maiming of them.

And you are also, with the assistance of our Councill to find out the best means to facilitate and encourage the conversion of Negroes and Indians to the christian religion. . . .

And forasmuch as great inconveniences may arise by the liberty of printing within our said Territory under your Government, you are to provide by all necessary orders, that no person keep any printing press for printing, nor that any book pamphlet or other matters whatsoever be printed without your special leave and license first obtained.[35]

The correspondence of the Governor of Connecticut during the 18th century demanded great powers. It required that he should be able to use language to conceal his thoughts or to express them; one course might be as valuable as the other. If what was wanted was simple, Governor Fitch or Governor Talcott could write a simple letter regarding it, or could well undertake to direct a law suit on appeal before the King and Council. The system of appeals to the English courts or councils necessarily prolonged litigation. Examples of correspondence with the Governor's office are given below.

* * * * *

There are two rules of American jurisprudence that sometimes lead to inconsistency of results. One is that an unconstitutional or *ultra vires* statute is void; and the other that the final judgment in a cause binds only the parties on the record.

The Colony of Connecticut had certain powers of legislation. Her General Court passed a statute regu-

[35] Documents Relating to the Colonial History of the State of New York, III, 543–548.

lating succession to the property left by the dead. It passed such a statute, but the Courts held that this went beyond the powers granted to the Colony. It followed that an intestate estate which had been distributed under it had been distributed wrongly. But while the Court which rendered the final judgment could order the property given over to A, as between him and B, because the statute which provided thus was *ultra vires,* this did not bind C, or D, because he was not a party to the cause. C or D therefore could set up a property right notwithstanding the terms of the statute, and the point of statutory power could be raised by him again.

A case of great importance (Winthrop v. Lechmere) came up in Connecticut in the eighteenth century. It involved the question whether the estate of John Winthrop, the founder of the Colony, had been properly distributed according to the Colony statute concerning the distribution of intestate estates. The following petition to the King shows the main facts on which the controversy turned:

To the King's most Excell^{t}. Majesty.

The humble Petition of Jonathan Belcher and Jeremiah Dummer, Esq^{rs} for and on Behalf of your Majesty's Colony of Connecticutt in New England.

Sheweth, That from the first settlement of the s^{d} Colony of Connecticutt to this time, which is near one hundred years since, it hath been the constant custom and usage to divide and distribute the reale Estates of all prsons dying Intestate in the following manner: Viz. To the Eldest Son a double portion, to all the Younger Children of such Intestate, Sons or Daughters, single shares apiece.

That King Charles the Second by his Royal Charter incorporated the Inhabitants of the s^{d} Colony into a Body Politick, with power to make all manner of wholesome and reasonable Laws not contrary to the Laws of England, whereby the Inhabitants might be religiously peaceably and civily govern'd.

That soon after obtaining the s[d] Charter, the said Colony pass'd an Act intitled An Act for Settling of Intestate Estates, whereby the said custom of dividing Intestates real Estates was enacted into a Law, and which Act hath ever since been observ'd as an established Rule in dividing and distributing Intestate's Estates.

That on an Appeal lately brought before your Majesty in Council by John Winthrop Esq[r], from several Judgments of the Courts in the said Province, whereby Thomas Lechmere Esq[r] and Anne his Wife (which Anne was only Sister of the said John Winthrop) were adjudged to be intitled to one third of the real Estates of which the Father and (of) the said John and Anne died seized he having made no disposition thereof by Will as (to) the said Anne's distributary share thereof under the said Act of the Colony. Your Majesty was pleas'd by your Order in Council to reverse the Judgments appeal'd from and to declare the s[d] Act for settling Intestate's Estates to be null and void.

That this Order being made in a private case on an Appeal, the said Colony had no opportunity of being heard in support of the said Act nor of showing how very prejudicial the annulling this Law must be to the whole Property of the Colony, and how greatly it must break in on the general welfare and quiet of the Colony. But the said Colony so soon as they were inform'd hereof appointed your Petition'rs humbly to apply to your Majesty for and on their behalf in the Premises, and accordingly your Petition'rs humbly present to your Majesty

That the said Custom was originally introduced into the said Province on what they thought would most contribute to the Settlement of the Country, which was then a large tract of uncultivated land possessed by savage Indians with whom they had perpetual Warrs, and it was afterwards continued as it was conceiv'd to be highly reasonable in itself especially with regard to the circumstances and nature of Estates in this Colony. For great part of the lands in this Colony are still unclear'd and but a small part of it to this day thoroughly subdued and the Inhabitants of this place have hardly any other way of supporting themselves but by tilling and subduing the Earth, and the whole strength of the people of this Colony is employ'd in clearing and tilling the wilds of this Colony, in which the Younger sons are at least equally laborious with the Elder, and in which improvement they engage with the greatest chearfullness as being well assur'd they should reap a proportionable benefit therefrom whether the Estate went according to the Law of the Colony, or according to the

Will of the Ancestor, for your Petitioners humbly inform your Majesty that such of your Subjects there who have made Wills have universally divided their real Estates among their children in the proportions above mention'd.

That the same custom also prevail'd in the next Province of the Massachusets which adjoins to Connecticutt, who likewise enacted the said custom into a Law, which Law the Crown afterwards thought proper to confirm. That should this course of Descent be alter'd in the Colony of Connecticutt, and the whole go to the Eldest Son, the uncultivated lands of this Colony will remain unsubdued, and the Younger Sons must quit Connecticut and go to the Massachusets, or turn themselves to some other way of life, the rents of the lands in New England being so very small, that few of the Inhabitants could subsist their families with the rents of their lands, much less to give portions to their Daughters (as in England) out of their rents.

Your Petition'rs further represent, that as the said custom hath prevail'd from the beginning of Government in this Colony, so most of the particular Estates of the Inhabitants are laid in it, and should the same become at once overturn'd, especially unless regard be had to the settlements made under the same for the time past, it would introduce the greatest confusions, and occasion a total alteration in the whole property of the people there, set the nearest relations into litigious contests, and impoverish the Colony by endless lawsuits.

Therefore and in consideration of the Premises, and as it is of such great moment and consequence to the Colony, and of consequence thereof to your Majesty's interest and service there, and as the whole Colony unite in this Request, and as your Majesty hath confirm'd this method of settling the lands of the Intestates in the next Province of the Massachusetts, Your Petitioners most humbly pray, that you would be pleas'd to give leave that a Bill may be brought into this present Parliament of Great Britain to confirm to the Inhabitants of the said Colony the Estates they now hold and are in possession of under the said distribution of Intestates real Estates, and to quiet them therein, and to enable them to divide the lands of Intestates in the same manner for the future, with a saving clause to the said John Winthrop, the said Colony desiring to have the determination made by your Majesty in his case varied, in regard the particular circumstances of his case differ from most others in the Colony, and that your Majesty would cause such your Leave and Permission to be signify'd to

the Hono'ble the House of Commons in such manner as to your Majesty shall seem proper.

And your Petition[rs]. shall ever pray, &ca.

J. Belcher,
Jer. Dummer.

Febry 10[th], 1729/30.[36]

The Lords Commissioners of Trade, to whom this petition was referred by the King in Council, took it up and had a hearing, which the standing agent of Connecticut at London, Francis Wilks, thus reported to Governor Talcott, on February 13, 1731:

Sometime ago I receiv'd a letter from the Secretary to the Lords Commissioners of Trade to attend their Lordships, which I according did, and met with M[r] Dummer, and M[r] Winthrope, who had also Letters to the same purpose. We were call'd in, and M[r] Dummer very handsomely sett forth how just and necessary it was that what had been acted in the Colony upon the Law for the Division of Intestate Estates for so many years should be Confirm'd. M[r] Winthrope asserted that many very great Injuries have been impos'd on Private Families by that law, that often when a man has died intestate and left a young family, a fair estate has been confounded and sold for a small part of its value, and those in Authority who have been concern'd in the Sale, have underhanded been the Purchasers. He also affirm'd that the People of that Colony groan'd under the Burthen of Impositions impos'd on them under a notion of Charter Priviledges, and was there to be a Poll taken throughout the Province a great Majority wou'd be for giving up the Charter, &c[a]. The report from the Board of Trade is gone to his Majesty in Council, and I hope to have a Copy of it to send you by this Opportunity: but by what I can learn of the Substance of it, their Lordships have Recommended it as absolutely necessary that the people shou'd be confirm'd in their Possession of the Estates they hold, according to the Law which has so long subsisted amongst them for the Division of Intestate Estates. But I am inform'd in the same Report they take notice and give it as their opinion, that the footing the Colony is upon at present, under their present

[36] Connecticut Historical Society Collections, IV, 217–219.

Charter, is no ways consistent with the Constitution or Interest of Great Britain, and therefore recommend it that the Legislature of this Kingdom shou'd Grant a New Charter, better calculated for the Government of your own Body, and more consistent with the Honour and Interest of Great Britain. Upon this footing and in this light, I apprehend the Affair will be brought into Parliament. If I in your behalf urge it, this Session, its such a Clogg as shocks me in my resolution how to act, and as you have not taken the least Notice of it, I apprehend its what you don't expect. At a Committee of His Majesty's Most Hon'ble Privy Councill last week, I moved by my Solicitor for a Hearing upon the Report from the Board of Trade, when M^r^. Winthrope, being present, urged that as he had exhibited several Articles of Complaint against the Colony, that they might be heard at the same time. Their Lordships enquir'd if the one anyways related to the other, and being assur'd they did not, it was overruled, and a short day is appointed for a Hearing. As soon as it is over, I shall pursue all prudent Measures as quick as possible to get an Act of Parliament pass'd, if I think it can be done, to answer the ends you aim at without losing the Benefit of your present Charter: but shou'd it appear clearly to me that the one will be the consequence of the other, I shall be afraid to proceed till I have your farther Directions, and in course nothing can be done this Session of Parliament.

I doubt not but you are sensible that all Applications here on publick accounts are very expensive, and particularly that of getting an Act of Parliament. That charge alone will be very great. I doubt not the Honour of the Colony in reimbursting me any Sum their Affairs may at present require me to advance, and which I shall readily do, tho' I have no Money of theirs in my hands, nor have you so much as mention'd anything concerning it.

I beg the favour you'll Communicate this to the Councill and Assembly, and be assur'd that I am,

Your Hon^rs^ Most hum. and obed^t^ Serv^t^,
Fra. Wilks.

To the Hon^ble^ Joseph Talcott, Esq^r^.[37]

Governor Talcott wrote, on April 26, 1731, to Mr. Wilks, in reply to his letter of February 13, that

[37] Connecticut Historical Society Collections, IV, 187–190.

notwithstanding M^r^ Winthrop's assertion before their Lordships, that was there a poll taken throughout this Province a great majority would be for giving up the Charter, &c., I am well assured that not 1 to an hundred are of that mind.

And in respect to what he asserts, that by the Law of the Colony respecting intestate Estates, that often when a man has died intestate and left a young family, a fair Estate has been confounded and sold for a small value, and those in authority who have been concern'd in the sale, have underhandedly been the purchasers, I suppose this is no less false than the other, and don't think that there is one instance in the Colony of any of the Judges of the Probate, who order the manner how s^d^ Estate shall be sold as to the proceeding thereon, have so much as had any such Estate, either at the sale, or otherways, or at any other time. No, not that either they or their heirs, or any in, by, or under them, or any of them, now have, or ever had, one penny worth of any such Estate sold as afores^d^. But I am the less concern'd whatever M^r^ Winthrop has or shall declare before their Lordships, &c^a^., concluding by this time hath been found in so many falsehoods there, as well as here, that as his tongue will be counted no Slander, so no man or people will be thought the worse of for his reproaching of them. And indeed many of his articles against this Gov^r^ment will appear (by the Evidences we have sent) to be untrue, altho' sign'd under his hand and given in to his Most Excellent Majesty in Councill.

And as we are inform'd that a lier shall not stand in the presence of the King, so I am persuaded the King's prime ministers will take no delight in any such person, nor in hearing their Reflections, and reproachfull assertions, and accusations cast upon others, but will rather reflect on such an angry countenance which tends to drive away back biters.

I can't think his Majesty, who with his honourable predecessors, have excellently shown their tender regards to the priviledges of all under their dominions, will suddenly be perswaded so much as to entertain any thought of taking away our Charter with the priviledges therein given us, without giving of us suitable notice to answer for ourselves. We presume we have not willingly or knowingly forfeited either his Majesty's Royall favour, or our Charter, and hope as from his predecessors, so from his Majesty, we shall be tenderly regarded, and as a tender branch of his Kingdom acknowledged; and so far as it is planted, the inhabitants here in this Colony, are fil'd with as much loyalty to his Majesty,

and zeal for their Majesty's honour and grandeur, even to the last of their posterity, (which I pray God will never be found till sun and moon be no more,) as any people in his Majesty's dominions.

I hope speedily after the Sessions of our Gen[ll] Assembly, to let you hear further, and am, Sir, with Due Regards,

your hum[ble] serv[t].

J. Talcott.[38]

The final outcome of the legislation over the estate of Governor Winthrop was an order for its distribution according to the Colonial statute of distributions; but the expressions of Governor Talcott in the foregoing letter may serve to indicate the general popular feeling that the long drawn controversy aroused.

In 1740 Governor Talcott in giving instructions to the agent for the Colony at London stated quite fully the facts bearing on the Winthrop v. Lechmere case as he claimed them. The following extracts from the instructions are plain and convincing:

As other nations, as well as our own, thought it Impracticable to Settle and build up a New County without deviding the Lands amongst the Childeren of the Ancestor, we are sure we have the Same Reasons to part our Reale Estates as they in other Countrys have had. It is now 104 Yeares Since our predecessors Settled in this Colony, who upon all occations (in theire Courts of Probate) Settled Reale Intestate Estates amongst the Childeren of the Deceased ancestor, the eldest Son having a double portion, which practice or Custom, when we procured a Charter of King Charles the 2[d], was presently Enacted into a Law, and Estates were accordingly Settled, until the unhapie Controversie of the before mentioned Gen[t]., when the King declared our s[d] Law voide; and from the time of our Settlement heare which was in 1636, unto the time that the King declared our s[d]. Law voide, there had Elapsed above 90 Yeares, in which time almost all the Real Estate in the Colony had been Settled according to the above named Law; for the Inhabitants of the Colony, seeing

[38] Connecticut Historical Society Collections, IV, 226–228.

that our Assembly had made a Law so well calculated for the good of the Colony, rested therein, and there was but few persons that settled theire Estates by Will; So that the admitting the eldest Son as heire at Law will make Such confutions and alterations in this Governm^{t}., that will certainly end in our ruin. Our Lands are not yet (but in part) Subdued, and a greate part are still wilderness. . . .

We might add that this Country hath been obtained at the onely expence & cost of the planters: we first gained our entry by purchas from the Indian Natives; Yet notwithstanding our peacable entry, the Second Yeare of our predecessors being heare, the Indians made cruel war upon them, and at a great Charge and Hazard they defended themselves & Subdewed theire enemies, after which our Colony had not much diffecultie with the Indians, until the Yeare Anno Domini 1675, in which Yeare the most of the Indians in New England with their Joynt force made war upon this as well as the other Provinces in New England, and then we were oblidged to defend our Selves at a Vast expence and loss of Blood & Treasure. We have not put the Crown to any Charge to Subdew the Country for us, Nor to defend us by theire garrisons, and the Colony hath Increased, and flourished, even, beyond expectation, under the above s^{d} Custom of dividing our Lands. Therefore we can't but believe that if our circumstances had been known by the King, our law would not have been declared voide; and we cant but hope for his Majesties favour, if there should be such a favourable opertunitie as above hinted. We have lately been Informed that M^{r}. Lechmere intends to gaine a rehearing of his case. Whether that can be, we cant Say; but if it should be, we Supose that will be a good opertunitie, and we dought not but that you will lay hold of that time, and gaine the King's favour.[39]

In the early part of 1705, Lord Cornbury and Governor Dudley, who represented the Crown in Connecticut at that time, prepared very serious charges against the Colony, the principal items being these:—

That the Government of Connecticut does not observe the acts of trade and navigation, but countenances the violation thereof, by permitting and encouraging of illegal trade and piracy.

[39] Connecticut Historical Collections, V, 244–247.

That the Colony of Connecticut is a receptacle of pirates, who are encouraged and harbored by that Government.

That the Government of Connecticut harbors and protects soldiers, seamen and servants that desert from other her Majesty's plantations, and will not deliver them up when they are reclaimed, they also give shelter to malefactors, who make their escapes from other parts, without delivering them up when demanded, and that great numbers of the young men go out of the Colonies of the Massachusetts Bay and New York . . . to Connecticut, and are there entertained and induced to settle chiefly for that no taxes are raised there . . .

That the Colony of Connecticut will not furnish their quota towards the fortifying of Albany and assisting New York, the place of common security for all those parts, nor do they give due assistance in the Colony of the Massachusetts Bay against the French and Indians.

That if any of her Majesty's subjects, not being inhabitants of this colony, sue for a debt in the courts, they can have no right done them, if the defendants be of that colony.

That under color of their charter, they try robberies, murders and other crimes, make capital laws and punish with death, without any legal authority for the same, and that their proceedings in their courts of judicature are very arbitrary and unjust.

That they do not allow of the laws of England to be pleaded in their courts, otherwise than as it may serve a turn for themselves.

That they have refused to allow of appeals to her Majesty in councill, and give great vexation to those that demand the same.

That the Government have refused to submit to her Majesty and his Royal Highness commission of Vice Admiralty, and for commanding their militia, and have defeated the powers given to the Governors of her Majesty's neighboring colonies in that behalf.

That they have made a law that no christians who are not of their community, shall meet to worship God, or have a minister, without license from their Assembly, which law even extends to the Church of England, as well as other professions tolerated in England.[40]

These charges were pressed with great vigor by Governor Dudley and Lord Cornbury, but Sir Henry Ash-

[40] Hinman's Antiquities, p. 327.

hurst, London Agent for the Colony, denied most of the charges, and carried the day before the Lords Commissioners for Trade and Plantations. He was able to show that at that time Connecticut had hundreds of men in actual service, of whom four hundred had been employed specially in the defence of Massachusetts and New York. Governor Winthrop wrote Sir Henry Ashhurst in August of the same year commending his action, and declaring that

> I am very sensible of your constant care of our affairs, and more especially at this juncture, when those that pretended friendship endeavored by private complaints, and as false as any that could be devised, to destroy us without suffering us (if they could have prevented it) to make answer for ourselves. Next to her Majesty's justice, we owe it to your vigilance that they are thus far frustrated. The Government here has not made it their business to inquire after irregularities in the neighboring provinces, nor shall we allege the hard things which have been put upon this Government, from either of them, though it were easy for us to complain upon better grounds than any they have to suppose themselves injured by us, who have been at several thousands of pounds charge for their assistance both of New York and Boston, and have ever studiously endeavored that they should not have the least reason to complain of our neighborhood, but I know not whether it be fit we should always be silent, who meet with no better usage from them, that we are so careful to show all possible respect to our General Assembly, which will shortly convene, will upon the perusal of your letters, be very sensible of their obligations, you are increasing upon them, and be most ready to acknowledge it to their utmost abilities.[41]

Three years later Governor Winthrop died, and Gardon Saltonstall became Governor of the Colony. The attacks upon the Colonial administration had been renewed, and Sir Henry Ashhurst wrote him in regard to the situation, referring to his predecessor as one who

[41] Hinman's Antiquities, p. 331.

GURDON SALTONSTALL, 1666–1724
Governor of Connecticut, 1708–1725. Also Chief Justice of Connecticut, 1711–1712.
Chiefly responsible for the location of Yale College in New Haven.

for his public spiritedness and zeal for the liberties of his country, when one so near you armed with power, with great abilities, great dissimulation, great falseness, had endeavored with great art to rob you of everything that was dear to you, though some considering persons among you might foresee some of his malicious designs; but you know not half the mischief that was designed against you. Under these difficulties your predecessor showed himself a true descendant of Romulus his grandfather, the first founder of Connecticut colony. And since God has taken him from you, I look upon it as a great mercy that one in some respects superior to him by your knowledge in divine things fills up his room.

This reference to Romulus as his grandfather and the complimentary allusion to Governor Saltonstall's "knowledge of divine things" was natural, as the Governor was an ordained clergyman. The letter continues thus:

There is some good spirit or genius among you, that you are neither cheated, nor affrighted out of your liberties and religion. The axe was laid to the root of the tree, and how unworthy am I to be employed in defending that good people from slavery and the greatest oppressions. I would not have you disturbed about your taking the Government, when you are once extricated out of your difficulties by the removal of a certain person from a neighboring Government, you will find your country in rest, living in the fear of God and comforts of the Holy Ghost; you may then think of returning to your former calling, but at present you must be the Moses, and as the Archbishop Tillotson told me that he would not have undertaken that great employment, but upon the King's promise of leave to lay it down, as soon as settled in his kingdoms. You speak of a letter written to me of the country's concerns, but that I never received; also what you writ about a commission of enquiry relating to the Mohegan Indians. I make it my business with all my interest to keep that matter quiet. Alas! Sir, I can no more hope to have those persons you name judges, than to have you Chief Justice of England. You have now the mercy of an honest Lord coming near you. If I can, I should be contented to have it referred to him; 'tis my Lord Lovelace, Governor of New York. I desire you would depute some of your company to wait on him, and deliver

him the enclosed, and make him some small present. He is a man of honour, and he will use you justly. His secretary, Mr. Cockrill, is I believe a very honest man and you may trust him. I desire you would present to the Queen a very handsome address to congratulate the good success of her arms against the French, and to take notice of the Duke of Marlborough, her General, and also to write a letter to the Duke of Marlborough to congratuate him, and to pay his kindness to your country, and that he would employ his great interest, that you may not be oppressed by any Governor of Massachusetts, in New England, or by any Governor of New York, as you have been by Colonel Dudley in New England and my Lord Cornbury in New York. . . . Your brother Nathaniel is steward to Mrs. Howland, the Duke's mother-in-law, and take all your wise men together to draw up these letters; and thoroughly and fully set forth your hardships about the Mohegan Indians, and of Dudley's proceedings at Stonington, and that it was, as truly as it is, a contrivance of Dudley's to rob you of your estates, and also set out the falseness of his complaint to the Queen and Council about your not contributing to the charge of the war, when by his letter of the same date to you, he thanks you for the greatness of your supplies, and that you had actually been at ten thousand pounds charge for the support of the war in two year's time, when your whole country has not in running cash—pounds in it. Put all these letters and memorials under your common seal, either under a flying seal, or else send me duplicates, that I may know what is in them, and take notice that you send them to me as your public agent, and also beg her Majesty, that she would not put her loyal colony to charge in receiving any accusation against them, so as to proceed upon it, without giving you liberty to answer for yourselves. . . . I am very glad that my pains and services are accepted by you. And if I did not like the employment I would not impair my health and spend my money and my precious time to watch all the motions of your vigilant enemies from my own pleasant seat and family. But I serve a good God in a glorious cause, and so I go on cheerfully. I desire in your next you would send me your body of laws, the number of your inhabitants as near as you can, the number of your ministers and parishes, and the names of the most considerable ministers, the extent of your colony, and how conversions to serious religion goeth forward.[42]

[42] Hinman's Antiquities, p. 329.

It will be seen that the London Agent of the Colony had a very difficult task to perform. It was one that almost necessarily threw him into disputes with the English Minister.

In 1752 two important changes were made in English law. The first of these was the institution by Act of Parliament of a new method of keeping the public calendar, which was expressly made to take effect in the Colonies.

The second was a great increase in the powers of the Lords of Trade and Plantations.

Thenceforward vacanies occurring from time to time in Colonial offices were to be filled on the nomination of the Lords of Trade and Plantations, excepting certain customs offices and such as only concerned the administration of admiralty jurisdiction. All official correspondence with the Colonies was to pass through the hands of that board. This served to centralize authority, and trenched upon the Connecticut charter in regard to the appointment of its inhabitants to office.[43]

Ten years before the Declaration of Independence, a secret political association was formed, whose character is indicated by their name,—"Sons of Liberty." It was strongest in New England, and particularly in Massachusetts and Northern Connecticut. Pamphleteers spread its doctrines. It met only occasionally, but often to plan for or execute acts of violence and war. The Stamp act of 1768 was a special object of their ill-will. Few moderate men joined the Sons of Liberty. It was a hot bed of opposition to the general policies of the Colonial assemblies. To the radicals they were

[43] Connecticut Historical Society Collections, XVI, 152, 181.

their only hope. To the conservatives they were no friends of the people.

A typical instance of the work of the Sons of Liberty is given by the ill-fortune of stamp-master Jared Ingersoll, who was forced to resign by a troop of horse.

By 1768 it became evident that the presence of the Colony agents at London carried with it a certain element of danger. Their powers were ill-defined, often too vague, and sometimes were entrusted to incompetent and ill-advised persons. A letter dated November 15, 1768 from the British Secretary of State to the Governor of New York, set forth the situation.

Earl of Hillsborough to Governor Moore.
Whitehall. 15th Novr 1768.

Sir,

You have already been acquainted by a letter from Mr Pownall that your Dispatches to me from No 22 to 25, had been received, since which they have been laid before the King; but as I have not any thing in Command from His Majesty upon the subject of those Dispatches, I have only to inform you, that the Queen was happily brought to bed of a Princess on Tuesday last, and that both Her Majesty & the young Princess are as well as can be desired; I most heartily congratulate you upon this increase of the Royal Family, an event that affords the greatest satisfaction to all His Majesty's Subjects.

Inclosed I have the honor to send you His Majesty's Speech to His Parliament at the opening of the Session on the 8th instant together with the Addresses to the King from both Houses, that of the House of Lords passed nemine contradicente, & that of the House of Commons without a division.—This happy Unanimity and the Resolution to preserve entire and inviolate the supreme authority of the Legislature of Great Britain over every part of the British Empire, so strongly expressed in these Addresses, will, I trust, have the happy effect to defeat and disappoint the wicked Views of those, who seek to create disunion & disaffection between Great Britain and Her Colonies, and that all His Majesty's subjects in America; who wish well to the peace

and prosperity of the British Dominions, will give full credit to Parliament for that true affection towards the Colonies which appears in their Declaration that they will redress every real grievance of His Majesty's American Subjects, and give due attention to every complaint they shall make in a regular manner and not founded upon claims and pretensions inconsistent with the Constitution.

The King having observed that the Assembly of New York has for some time past fallen into a very irregular method of appointing an Agent to solicit the affairs of the Colony in England, & His Majesty being apprehensive that this Deviation from the mode of appointing an Agent approved of in other Colonies, which has usually been by an act of Governor, Councill & Assembly, specially passed for that purpose, may in future create difficulty, embarassment and disappointment in transacting the Affairs of New York both in Office & in Parliament; I have His Majesty's commands to mention this to you, & to desire you will recommend it to the Assembly as a Matter in which their Interest is concerned, that for the future they would in the appointment of an Agent follow the Rule observed in the Islands in the West Indies & in Virginia, Carolina and Georgia, which His Majesty conceives to be the only proper and constitutional Mode & the King has the better hope of their compliance with this recommendation, as His Majesty finds it to have been the Method formerly practised in the Colony of New York itself, and is certainly the only one by which any person can be properly authorized to represent the Province and to act for it in all matters which concern its interest in general.

I would not be understood by what I have said concerning the appointment of an Agent to insinuate the most distant disapprobation of M[r] Charles, who appears to have executed his Duty with the utmost regard to and zeal for the Interest of the Colony, and with every mark of proper respect and deference to Government.

His Majesty has been graciously pleased to sign a Mandamus for the admission of M[r] Wallace into the Council of New York in the place of M[r] Walton, & also for the admission of M[r] James Delancey in the place of M[r] Alexander.

I am &c.
Hillsborough.[44]

Sir Henry Moore.

[44] Documents relating to the Colonial History of the State of New York, VIII, 108.

The following extract from the Connecticut Gazette will help to show how outspoken was the condemnation of the British Stamp Act:

At a meeting of a number of the true sons of liberty in Wallingford, in New Haven County, on the evening of the 13th day of January, 1766, after duly formed by choosing a moderator and clerk, the following resolves were come into, viz:

Resolved, 1. That the late act of Parliament, called the Stamp Act, is unconstitutional, and intended to enslave the true subjects of America.

Resolved, 2. That we will oppose the same to the last extremity, even to take the field.

Resolved, 3. That we will meet at the Court House in New Haven, on the third Tuesday of February next; and we desire all the sons of liberty in each town in the county would meet then by themselves or representatives; there to consult what is best to be done in order to defend our liberties and properties, and break up the stop to public affairs.

Resolved, 4. That this meeting be adjourned to the first Tuesday of February next, then to choose our representatives to attend the aforesaid meeting.

A true copy, examined,
P. P. Clark.[45]

Connecticut had a long succession of able colonial agents at Court to look after her interests. All the colonies generally had the same. They were half spies and half ambassadors. Among the best known were Benjamin Franklin, Edmund Burke, and William Samuel Johnson. The latter was a doctor of laws of Oxford University. The confidence reposed in him by the Colony is expressed in the following correspondence:

To the Honou^{ble} William Sam^{l} Johnson, Esq^{r}.

Sir: We, the subscribers, being appointed by the General Assembly in their present sessions, to return you their thanks for

[45] Barber, Connecticut Historical Collections, 254.

your faithful service while Agent for this Colony at the Court of Great Britain, do, in the name of the General Assembly, return you their thanks for your faithful service while acting in that capacity, and hereby testify their approbation of your constant endeavour to promote the general cause of American Liberty, and your steady attention to the true interest of this Colony in particular.

New Haven,
Octo. 29, 1771.

Rob^{t} Walker,
G. Saltonstall,
Benj^{n} Hall,
J. Chandler.

I want words to express the deep sense I have of the honour the General Assembly have been pleased to confer upon me, and beg you will assure them that I receive it with the warmest gratitude. It was my duty in the situation in which I had the honour to be placed in England, to give the most careful attention to the interest of American liberty and to the rights of the Colony of Connecticut; and I am extremely happy that my well meant services have been in any degree acceptable to my fellow citizens, for whose approbation and regard I have the highest value. I shall ever consider it as the great honour of my life to have had the thanks of the General Assembly; and they may rely upon it that while I live I shall esteem it my duty to render every service in my power to the Colony of Connecticut, for which I have the highest respect and the most ardent affection. I beg also that you, Gentlemen, will be so good as to accept my best thanks for the very polite manner in which you have been pleased to convey to me the resolution of the Assembly.

Wm. Sam^{ll} Johnson.[46]

Richard Jackson was another Connecticut representative at Court, and his services were handsomely acknowledged in October, 1771.

This Assembly having a very grateful sense of the many important services rendered this Colony by Richard Jackson, Esq^{r}, our late Agent at the Court of Great Britain: Therefore,

Resolved by this Assembly, That the thanks of this Assembly

[46] Colonial Records of Connecticut, 1768–1772, 510.

be given to said Richard Jackson, Esq^{r}, for his said services and for the great care and faithfulness and steady attention he has ever paid to the true interest of the colony, and that his Hon^{r} the Governor be desired to communicate the same to him. . . .

Resolved by this Assembly, That Eliphalet Dyer, Roger Sherman, and Wm. Samuel Johnson, Esq^{rs}, be and they are hereby appointed a committee to procure some proper and elegant piece or pieces of plate at their discretion, to be presented to Richard Jackson, Esq^{r}, late Agent of this Colony, as a mark of publick esteem and of the high sense the Colony have of his faithful services; such plate to be inscribed with some proper motto expressive of such their respect for him, and that the arms of the Colony be also engraved thereon. And this Assembly do grant a sum not exceeding one hundred and fifty pounds, sterling money, for defraying the expence thereof.[47]

The General Court, in 1768, sent in to the crown the following address against the claim of the ministry to tax America.

Hartford, June 10th, 1768.

My Lord:—His Majesty's must dutiful and loyal subjects, the Governor and Company of the English Colony of Connecticut in New England in America, beg leave to congratulate your Lordship, and express our satisfaction on the royal appointment designating a person of your Lordship's distinguished excellency and dignity to the important office of Secretary of State to the Colonies in America, and felicitate ourselves that we have a person appointed of your Lordship's real worth, known ability, and approved integrity, as well as great humanity and benevolent disposition, to whom we may apply in all our exigencies, and may address all our petitions by you to the throne, that by your kind aid they may reach the royal ear, and also by your benign influence help from the throne may be obtained. We beg leave to ask your Lordship's favorable attention to our complaints under the heavy burthens laid upon us by an act of the British Parliament, entituled "An Act for granting certain duties in the British Colonies and Plantations in America; for allowing a drawback of the duties of customs upon the exportation from this kingdom of coffee and cocoa-nuts of the produce of

[47] Colonial Records of Connecticut, 1768–1772, 518.

the said Colonies or Plantations; for discontinuing the drawbacks payable on china earthen ware exported to America; and for more effectually preventing the clandestine running of goods in the said Colonies and Plantations." We entreat your favorable interposition that we may be relieved from them. We would observe to your Lordship the great difficulties and distresses we are reduced to, not only from our great poverty and inability to pay those duties and impositions, which are occasioned by the great burthens, charges, and expences that we have been subjected to in the cost of the last war, into which with great cheerfulness we entered by his Majesty's command; and to shew our loyalty and duty to our most gracious sovereign, we with alacrity discovered our zeal for his Majesty's service by going greatly beyond our abilities, which hath been, as we apprehend, from time to time recognized by Parliament in their grants to the King, to enable him to make some compensation to us as well as the other Colonies in America for our extra services; notwithstanding which we are left poor and low, and under a heavy debt, from which it will be a long time before we can hope to extricate ourselves. These considerations render the burthens heavy, and indeed almost insupportable. But, my Lord, there are other considerations which make them peculiarly grievous and afflicting, that the Parliament of Great Britain, whom we revere as the great council of the nation, should impose these duties upon the American Colonies for the sole purpose of raising a revenue in America. It is with the deepest concern that we esteem ourselves thereby at once stripped not only of our most valuable constitutionable rights as Englishmen and British subjects, but also dishonored in not being allowed to make any free gift of what we esteem our own to our beloved and benevolent sovereign upon any royal requisition that shall in coming time be made.

Our constitutional rights we esteem as great as any of our fellow subjects. We look upon ourselves free and natural-born subjects to our most gracious King, and have to say that his Majesty's royal predecessors have acknowledged us to be such, more especially King Charles the Second, in the royal charter granted to said Governor and Company, expressly declares and grants "to them and their successors, that all and every the subjects of us, our heirs or successors, which shall go to inhabit in said Colony, and every of their children which shall happen to be born there, or on the sea in going thither or returning from thence, shall have and enjoy all liberties and immunities of free

and natural-born subjects within any of the dominions of us, our heirs or successors, to all intents, constructions, and purposes whatsoever, as if they and every of them were born within the realm of England," and these royal concessions have been from time to time recognized by the British Parliament themselves. And as we are thus declared English subjects and partners in the general privileges and liberties of Englishmen, the consequences we trust will appear clear and convincing to your Lordship, that we ought not to be taxed without our own consent, any more than our fellow subjects being within the realm of Great Britain, which certainly will be the case if we are taxed by Parliament when we have no representation there, nor is it possible, considering our distant situation, that we can have any. Moreover, we cannot but with grief of heart reflect that that august body, the British Parliament, the grand council of the British nation, whose glory, whose honor, and whose happiness we rejoice in as our own, should dispose of our property without our consent, when no part of the King's dominions (we have the vanity to think) would with more cheerfulness and alacrity contribute all the aid we possibly could toward securing, protecting, and defending our rightful sovereign and our happy nation against all attempts and annoyances from foreign and domestick enemies.

We beg leave further to observe, that the product of our labor and our trade naturally and necessarily tends to and centers in Great Britain, and if our wealth should be ten times greater than it is, the bulk of it would be expended in purchasing her manufactures. We pride ourselves in being connected with that people whose distinguished privileges render them in our esteem the happiest of the human race. Our connections with them are so strong, and cemented both by affection and interest, that we cannot entertain the most distant wish of being separate from the protection of our Mother State. We say, my Lord, that we, whose liberties and privileges we esteem the same with our fellow subjects in Great Britain, should be denied the honor of making a free gift of what we think we have a right to call our own, or voluntarily complying with any requisition of our rightful Lord and Sovereign, and be divested of our property in a way that manifests a distrust of our loyalty to our King, and of our love to our mother country, is really depriving us of one of the most peculiar pleasures of subjects every way inclined and disposed to give the strongest proofs of loyalty and affection to their sovereign. Upon the whole we beg leave to repeat our earnest

entreaty to your Lordship, to lay before his Majesty for his royal consideration our petition herewith transmitted, and your attention to our case and favorable interposition for our relief and deliverance from these our sorrows and burthens, which will always command the greatest gratitude from

Your Lordship's most obedient and most humble servants,

Wm Pitkin.

Addressed:—To the Right Hon'ble, the Earl of Hillsborough, one of his Majesty's principal Secretaries of State.[48]

Below is given a letter to Richard Jackson, the Colony Agent, and a petition to the King and Parliament protesting against the Stamp Act.

Whereas at the special Assembly holden at Hartford in September last Eliphalet Dyer, William Samuel Johnson and David Rowland, Esqrs, were appointed Commissioners on behalf of the Colony to join a proposed Congress at New York, for the purpose of conferring upon a general and united humble, loyal and dutiful representation to his Majesty &c., of the present circumstances of the Colonies and the difficulties to which they are and must be reduced by the operation of the act of Parliament for laying duties and taxes on the Colonies, and to report their doings with the doings of the Commissioners at such Congress to this Assembly for acceptance and approbation: And whereas the said Commissioners have, pursuant to their aforesaid instructions, present to this Assembly three several petitions; one to the King's Most Excellent Majesty, one to the Right Honorable the Lords Spiritual and Temporal of Great Britain in Parliament assembled, the other to the Honorable Knights, Citizens and Burgesses in Great Britain in Parliament assembled, made at said Congress and signed by Commissioners from several of the Colonies on this Continent, for the acceptance and approbation of this Assembly: The same being taken into consideration, this Assembly do accept and approve of said petitions, and hereby authorize and desire the said Commissioners by said special Assembly appointed as aforesaid, to sign said petitions for and in behalf of this Colony. And this Assembly do desire his Honor the Governor to forward said petitions to Great Britain, (in order that they may be duly presented,) together with a proper certificate of the appointment of said Commissioners and the doings of this Assembly thereon.

[48] Colonial Records of Connecticut, 1768–1772, 84–86.

Sir: The Committees of the several Colonies lately appointed to meet at New York, to consider of the present unhappy circumstances of the Colonies, having agreed upon petitions to his Majesty and both Houses of Parliament, for relief from the grievances they at present labour under, which have been approved by the General Assembly of this Colony, and it being a subject of the last importance to us, you are desired to prefer those petitions, and to support them with your utmost influence, skill and ability, and leave no probable means unattempted to secure success in so interesting a matter.

The Colony being most firmly persuaded that the power lately exercised by Parliament of imposing taxes upon the Colonies without their consent, and extending the jurisdiction of the court of admiralty beyond its ancient limits is inconsistent with the principles and spirit of the British constitution, and an infringement of the essential liberties of the colonists, we can by no means be content that you should give up the matter of right, but must beg you would on all proper occasions claim and firmly insist upon the exclusive right of the Colonies to tax themselves, and the priviledge of tryal by jury, and to maintain these principles in the most effectual manner possible, as what we can never recede from. The arguments from inconvenience and the fatal consequences, both to Great Britain and her Colonies, which must flow from the exercise of parliamentary power, are obvious, and will no doubt be also fully insisted upon by you.

You will give a proper attention to all such arguments, hints and materials as may be furnished you by his honour the Governor, or which you may be able to collect from any other quarter, and make the best use you can of them to place the rights of the Colonies and the inconveniences of a parliamentary taxation in the most striking point of light.

You are also desired to correspond with the agents appointed by the other Colonies, and unite your utmost endeavours with them in the common cause, for obtaining a repeal of the late acts of Parliament, so grievous to the Colonies.

We request your closest attention to this most important subject, and shall ever retain the most grateful sense of your assiduity and diligence upon this occasion, and wish you all the success that so just a cause fairly demands.

To Richard Jackson, Esq[r], Agent
for the Colony of Connecticut.

The House of Representatives of his Majesty's Colony of Connecticut in New England, in General Court assembled, taking into their serious consideration that an act of the Parliament of Great Britain has been lately passed, for granting and applying certain stamp-duties &c. in the British Colonies and Plantations in America, find ourselves distressed with the most alarming apprehensions, when we observe that grand legislature to entertain sentiments so different from ours respecting what we ever reckoned among our most important and essential rights as Englishmen. The constitution of the British government we esteem the happiest in the world, founded on maxims of consummate wisdom, and in the best manner calculated to secure the prerogatives of the crown while it maintains the just rights and liberties of the subject. By virtue of which constitution and the royal grant and charter of his Majesty King Charles the second, the inhabitants of this Colony have enjoyed great and inestimable liberties and priviledges of a civil and religious nature, for more than a century past, and more especially under the auspicious government of the illustrious House of Hanover. That royal house have ever held sacred and inviolable those rights and privileges of their loyal subjects in this Colony, derived to them as aforesaid. In return for which the princes of that exalted line have ever had from this people their ardent desires of all happiness to their persons and glory to their empire. Inspired with the warmest sentiments of affectionate loyalty and duty, the colonists have been ever ready to sacrifice their lives and fortunes to the service of their King and country; and believing that his Majesty's interest in this Colony cannot be more firmly established and perfectly secured, nor the happiness of the British nation more effectually promoted by us, than in our full possession and continued enjoyment of the rights and priviledges of the British constitution, which we have not forfeited, but ought to hold as Englishmen, and which are, if possible, rendered more sacred and indefensible by the royal grant and charter aforesaid, which we conceive to stand upon the same basis with the grand charters and fountains of English liberty. And as the aforesaid act tends, (as we conceive,) to deprive us of the most interesting, important and essential of those rights, which we hold most dear and cannot on any possible considerations be induced willingly to part with, we are, therefore, filled with the most sensible grief and concern, and think it a duty we owe to his Majesty, to the Nation, to Ourselves and to Posterity, to express and declare the sense we have respecting the

rights and priviledges which we may justly claim, and humbly hope to enjoy under his Majesty's gracious protection and government; and do therefore declare and make it known in the following Declarations and Resolves.

1. In the first place, we most expressly declare, recognize and acknowledge his Majesty King George the third to be lawful and rightful King of Great Britain and all other the dominions and countries thereto belonging, and that it is the indispensible duty of the people of this Colony, as being part of his Majesty's dominions, always to bear faithful and true allegiance to his Majesty, and him to defend to the utmost of their power against all attempts against his person, crown and dignity.

2. That this Colony, or the greatest part thereof, was purchased and obtained for great and valuable considerations, and some other part thereof gained by conquest, with much difficulty, and at the only endeavors, expences and charges of our forefathers; and that thereby considerable addition was made to his Majesty's dominions and interest; and that in consideration of such purchase &c., as aforesaid, his Majesty King Charles the second in the fourteenth year of his reign did for himself, his heirs and successors, ordain, declare and grant, unto the Governor and Company of this Colony and their successors, that all and every of the subjects of him, his heirs and successors, which should go to inhabit within the said Colony, and every of their children, which should be born there or on the sea in going thither or returning from thence, should have and enjoy all liberties and immunities of free and natural subjects within any of the dominions of the said King, his heirs or successors, to all intents, constructions and purposes whatsoever, as if they and every one of them were born within the realm of England.

3. That the free natural subjects of Great Britain born within the realm of England have a property in their own estate, and are to be taxed only by their own consent, given in person or by their representatives, and are not to be disseized of their liberties or free customs, sentenced or condemned, but by lawful judgment of their peers; and that the said rights and immunities were granted to and conferred on the inhabitants of this Colony by the royal grant and charter aforesaid, and therefore are their rights, to all intents, constructions and purposes whatsoever.

4. That the consent of the inhabitants of this Colony was not given to the said act of Parliament, personally or by representation, actual or virtual, in any sense or degree that at all comports with

the true intendment, spirit, or equitable construction of the British constitution.

5. That his Majesty's liege subjects of this Colony have enjoyed the right and priviledge of being governed by their General Assembly in the article of taxing and internal police, agreeable to the powers and priviledges granted and contained in the royal charter aforesaid, for more than a century past; and that the same have never been forfeited or any way yielded up, but have been constantly recognized by the King and Parliament of Great Britain.

6. That, in the opinion of this House, an act for raising money by duties or taxes differed from other acts of legislation, in that it is always considered a free gift of the people made by their legal and elected representatives; and that we cannot conceive that the people of Great Britain, or their representatives, have right to dispose of our property.

7. That the only legal representatives of the inhabitants of this Colony are the persons they elect to serve as members of the General Assembly thereof.

8. That the vesting an authority in the courts of admiralty, as in said act is provided, to judge and determine in suits relating to the duties and forfeitures contained in said act, and other matters foreign to their accustomed and established jurisdiction, is in the opinion of this House highly dangerous to the liberties of his Majesty's American subjects, contrary to the great charter of English liberty, and destructive of one of their most darling rights, that of tryal by juries which is justly esteemed one chief excellence of the British constitution and principal bulwark of English liberty.

9. That it is the opinion of this House, that the said act for granting and applying certain stamp-duties &c., as aforesaid, is unprecedented and unconstitutional.

10. That whenever his Majesty's service shall require the aid of the inhabitants of this Colony, the same fixed principles of loyalty, as well as self preservation, which have hitherto induced us fully to comply with his Majesty's requisitions, will, together with the deep sense we have of its being our indispensible duty, (in the opinion of this House,) ever hold us under the strongest obligations which can be given or desired, most cheerfully to grant his Majesty from time to time our further proportion of men and money for the defence, security, and other services of the British-American Dominions.

11. That we look upon the well-being and greatest security of this Colony to depend (under God) on our connections with Great

Britain, which we ardently wish may continue to the latest posterity; and that it is the humble opinion of this House, that the constitution of this Colony being understood and practiced upon as it has been ever since it existed is the surest band of union, confidence and mutual prosperity of our mother country and us, and the best foundation on which to build the good of the whole, whether considered in a civil-military, or mercantile light; and of the truth of this opinion we are the more confident, as it is not founded on speculation only, but has been verified in fact, and by long experience found to produce, according to our extent and other circumstances, as many loyal, virtuous, industrious and well-governed subjects, as any part of his Majesty's dominions, and as truly zealous, and as warmly engaged to promote the best good and real glory of the grand whole, which constitutes the British Empire.

At a General Assembly holden at New Haven 2d Thursday of October, A. D. 1765.

In the House of Representatives: The foregoing Declarations and Resolves were voted and pass'd with great unanimity. And it is further voted and desired by this House, that the same be entered on the records and remain in the files of the General Assembly of this Colony.

Test. William Williams, Clerk.

In the Upper House: Consented that the foregoing Declaration and Resolves be entered on the records and remain in the files of the General Assembly of this Colony, according to the desire of the House of Representatives,

Test. George Wyllys, Secretary.[49]

In 1766 the General Court passed a resolution of thanks to the King for the repeal of Stamp Act.

This Assembly desire his Honour the Governor to consider of and prepare an humble, dutiful and loyal Address to his Majesty, expressive of the filial duty, gratitude and satisfaction, of the Governor and Company of this Colony on the happy occasion of the beneficial repeal of the late American Stamp Act, so soon as he shall be possessed of all the materials and intelligence which are

[49] Colonial Records of Connecticut, 1762–1767, 420–425.

expedient and necessary in order to preparing and finishing such address in a decent and proper manner. And his Honour the Deputy Governor, Hez[h] Huntington, Matthew Griswold, Eliphalet Dyer, William Pitkin jun[r], Roger Sherman, Robert Walker, Wm Samuel Johnson, George Wyllys, Zebulon West, John Ledyard, Alexander Wolcott, Jedidiah Elderkin, and William Williams, Esq[rs], are hereby appointed a committee fully authorized and directed, to assist and advise his Honour the Governor in preparing and compleating, as soon as it may conveniently be done, such address, and any other addresses as they shall judge expedient and proper on this joyful and happy event; the same to be signed and forwarded by his Honour the Governor in the name and on behalf of this Corporation; and also desire his Honour the Governor to return the most ardent and grateful thanks of this Assembly to all those who have distinguished themselves as the friends and advocates of the British Colonies in America on this important occasion, whether as members of the British Parliament, or otherways.[50]

The repeal of the Stamp Act of 1768 did not content Connecticut. Had it been accompanied by a statement from Parliament or the Crown that England recognized the principle that taxation and representation must go together, the repeal might have saved the situation.

But instead of this, the ministry procured from Dr. Johnson of London, the ablest political writer in the realm, a vigorous attack on the declaration of the Philadelphia Congress of 1775. Dr. Johnson found a taking name for his tracts. The "Taxation no Tyranny" and the "Patriot," both issued at this time, were widely read. The following extracts will serve to show that the main issues were strongly pressed:

He that wishes to see his country robbed of its rights, cannot be a Patriot.

That man therefore is no Patriot who justifies the ridiculous claims of American usurpation; who endeavours to deprive the

[50] Colonial Records of Connecticut, 1762–1767, 466.

nation of its natural and lawful authority over its own colonies; those colonies which were settled under English protection; were constituted by an English charter; and have been defended by English arms.

To suppose that by sending out a colony, the nation established an independent power; that when, by indulgence and favour, emigrants are become rich, they shall not contribute to their own defence, but at their own pleasure; and that they shall not be included, like millions of their fellow-subjects, in the general system of representation; involves such an accumulation of absurdity, as nothing but the show of patriotism could palliate.

He that accepts protection, stipulates obedience. We have always protected the Americans; we may therefore subject them to government.

The less is included in the greater. That power which can take away life, may seize upon property. The parliament may enact for America a law of capital punishment; it may therefore establish a mode and proportion of taxation.

But there are some who lament the state of the poor Bostonians, because they cannot all be supposed to have committed acts of rebellion, yet all are involved in the penalty proposed.—This, they say, is to violate the first rule of justice, by condemning the innocent to suffer with the guilty. . . ."

"The charters given to different provinces are different, and no general right can be extracted from them. The charter of Pennsylvania, where this congress of anarchy has been impudently held, contains a clause admitting in express terms taxation by the parliament. If in the other charters no such reserve is made, it must have been omitted as not necessary, because it is implied in the nature of subordinate government. They who are subject to laws, are liable to taxes. If any such immunity had been granted, it is still revocable by the legislature, and ought to be revoked, as contrary to the public good, which is in every charter ultimately intended.

Suppose it true that any such exemption is contained in the charter of Maryland, it can be pleaded only by the Marylanders. It is of no use for any other province; and with regard even to them, must have been considered as one of the grants in which the king has been deceived, and annulled as mischievous to the public, by sacrificing to one little settlement the general interest of the empire; as infringing the system of dominion, and violating the compact of government. But Dr. Tucker has shown, that

even this charter promises no exemption from parliamentary taxes. . . ."

"Of the principles contained in the resolutions of the Congress, however wild, indefinite, and obscure, such has been the influence upon American understanding, that from New England to South Carolina there is formed a general combination of all the provinces against their mother-country. The madness of independence has spread from colony to colony, till order is lost, and government despised, and all is filled with misrule, uproar, violence, and confusion. To be quiet is disaffection, to be loyal is treason.

"The Congress of Philadelphia, an assembly convened by its own authority, has promulgated a declaration, in compliance with which the communication between Britain and the greatest part of North America is now suspended. They ceased to admit the importation of English goods in December, 1774, and determine to permit the exportation of their own no longer than to November, 1775.

"This might seem enough, but they have done more. They have declared that they will treat all as enemies who do not concur with them in disaffection and perverseness, and that they will trade with none that shall trade with Britain.

"They threaten to stigmatize in their Gazetts those who shall consume the products or merchandise of their Mother-country, and are now searching suspected houses for prohibited goods.

"These hostile declarations they profess themselves ready to maintain by force. They have armed the militia of their provinces, and seized the public stores of ammunition. They are therefore no longer subjects, since they refuse the laws of their sovereign, and in defence of that refusal are making open preparations for war. . . ."

It were a curious, but an idle, speculation to inquire, what effect these dictators of sedition expect from the dispersion of their Letter among us. If they believe in their own complaints of hardship, and really dread the danger which they describe, they will naturally hope to communicate the same perceptions to their fellow-subjects. But probably in America, as in other places, the chiefs are incendiaries, that hope to rob in the tumults of a conflagration, and toss brands among a rabble passively combustible. Those who wrote the Address, though they have shown no great extent of profundity of mind, are yet probably wiser than to believe it: but they have been taught by some master of mischief, how to put in motion the engine of political electricity; to attract

by the sounds of Liberty and Property, to repel by those of Popery and Slavery; and to give the great stroke by the name of Boston.

When subordinate communities oppose the decrees of the general legislature with defiance thus audacious, and malignity thus acrimonious, nothing remains but to conquer or to yield; to allow their claim of independence, or to reduce them by force to submission and allegiance.[51]

The people of Connecticut supported the war policies of their government by a substantial majority. The lower house of the General Court, in May, 1770, voted as follows:

Resolved, That this House do highly approve the conduct of the merchants of the Massachusetts Bay, Connecticut, New York, Pennsylvania, and all the other Colonies who, in these critical times, have made so noble a stand, to save the liberties of this country, by refusing to import several British manufactures, until the revenue laws are repealed; thereby sacrificing their private fortunes to the cause of liberty, from such truly patriotic views as ought to transmit their memories with distinguished honor to the latest posterity—and ordered, that the clerk of the House be directed to cause a copy of this resolve to be published in the several newspapers in this Colony.[52]

In May, 1773, at the invitation of Virginia, plans were made for a committee of correspondence with other colonies.

In the House of Representatives of the Colony of Connecticut, Friday, 21st May, 13th Geo. 3d, 1773.

Mr. Speaker having laid before the House a letter from the Speaker of the House of Burgesses of the Colony of Virginia containing certain resolutions entered into by said House on the 12th of March last: This House taking into consideration the contents of said letter, the abovementioned resolutions and the reasons on which they are grounded, are of opinion that they are

[51] Johnson's Works, Am. Ed. 1842, Vol. 2, pp. 424, 425; 431, 432; 433; 435.
[52] Colonial Records of Connecticut, 1768–1772, 236.

weighty and important, in their nature and design calculated and tending to produce happy and salutary effects in securing and supporting the antient, legal and constitutional rights of this and the Colonies in general, do approve of and adopt the measure.

And thereupon resolve, That a standing Committee of Correspondence and Enquiry be appointed, to consist of nine persons, viz.: the Hon. Ebenezer Silliman, Esq^{r}, William Williams, Benjamin Payne, Samuel Holden Parsons, Nathaniel Wales, Silas Deane, Samuel Bishop, Joseph Trumbull and Erastus Walcott, Esquires; whose business it shall be to obtain all such intelligence, and to keep up and maintain a correspondence and communication with our sister Colonies, respecting the important considerations mentioned and expressed in the aforesaid resolutions of the patriotic House of Burgesses of the Colony of Virginia, and the result of such their proceedings, from time to time to lay before this House.

Resolved that the Speaker of this House do transmit to the Speakers of the different Assemblies of the British Colonies on this continent copies of these resolutions, and request that they would come into similar measures, and communicate from time to time with the said committee on all matters wherein the common welfare and safety of the Colonies are concerned.[53]

In October, 1774, the General Court pushed the revolutionary attitude of the Colony still farther by appointing an early day for military exercise throughout the Colony.

The order as modified follows:

Whereas it was enacted by the General Assembly held at New Haven on the second Thursday of October last, that every regiment in this Colony, as well as the horse as foot belonging thereto, shall meet either together or in parts at the discretion of the Colonel or commanding officer, at such time and place as such colonel or field officer shall appoint, for regimental exercise one day before the tenth day of May next: And whereas the meeting of such regiments agreeably to said act will be inconvenient in the present situation of affairs.

Resolved by this Assembly, That the colonels or commanding

[53] Colonial Records of Connecticut, 1772–1775, 156.

officers of the several regiments in this Colony shall be, and they are hereby, released from the obligation to call out their said regiments for regimental exercises before the tenth day of May next; anything in said Act to the contrary notwithstanding.[54]

An embargo was also laid for a few weeks on the export of provisions.

News of the battle of Lexington reached Hartford very promptly, and occasioned the following resolution:

Resolved by this Assembly, That William Samuel Johnson and Erastus Wolcott, Esq[rs], wait upon his Excellency Governor Gage with the letter written to him by his Honour our Governor by the desire of this Assembly, and confer with him on the subject contained in said letter and request his answer.[55]

In March, 1775, the General Assembly passed the following resolution:

Whereas our brethren of the town of Boston have long suffered and are yet suffering under the hand of oppression, grievous and unparalleled hardships and distresses, in consequence of their resolution to support the great principles of constitutional liberty; and having endured and yet enduring those sufferings in the common cause of America with most exemplary fortitude and magnanimity; the principles of humanity and justice to ourselves and them require that they should not be left to sink under the weight of burdens which without assistance may become absolutely insupportable.

And although many donations have been made them by this and the other Colonies, yet upon authentic intelligence it appears they are inadequate to the real distresses in which thousands of their innocent and virtuous are involved by means as aforesaid.

This House, taking the matters aforesaid into their serious consideration, do resolve, That it be and is hereby earnestly recommended to the several towns in this Colony, to continue cheerfully and liberally to contribute to the relief of their suffering brethren in said town, according to the several abilities which Divine Provi-

[54] Colonial Records of Connecticut, 1665–1677, 415.
[55] *Ibid.*, 416.

dence has given them; esteeming it an incumbent duty and an acceptable service in the sight of God and their country.

By order of the House, William Williams, Speaker.[56]

Many merchants in foreign trade looked upon this state of things as not likely to continue long. A Philadelphia house wrote to an English correspondent, on May 23, 1775, as follows:

We find Mr. Foxcroft, (the Assistant Postmaster General) had discharged the Post Riders, but we hear he has again sett them agoing. there is Post between this and N. York paid by some private persons, but whether they mean to continue it or not if the other is regular we dont know. we most heartily wish these unnatural disputes were at an end, and Harmony between the two Countrys again restored; but if the Americans should now be base enough (which however at present there seems to be no danger of) to give up their Liberties, they must ever after be content to be ranked amongst Slaves.[57]

Six months later a vessel ready to sail from New London to Europe was detained by order of the Continental Congress, acting in concert with the Committee of the town of Norwich.[58]

In May, 1775, Articles of War were adopted in Connecticut, mainly copied from previous legislation of the same sort. The preamble of the Act is as follows, and it witnesses the spirit of the times:

Whereas God in his province has been pleased in great mercy to bestow upon the inhabitants of this Colony all the rights, liberties and immunities of the free and natural born subjects of the realm of England, which have been established and confirmed by a sacred compact and secured by a Royal Charter; which rights, liberties and immunities were the birthright of our brave, virtuous

[56] Colonial Records of Connecticut, 1772–1775, 409.

[57] Mass. Hist. Soc. Collections, Seventh Series, Vol. X, commerce of Rhode Island, Vol. II, 1775–1800, 18, 19.

[58] *Ibid.*, 33.

and religious ancestors whilst in England, who rather than submit to religious or civil tyranny chose to leave their pleasant seats and all their happy prospects in their native country, bravely encountered the danger of untried seas and coasts of a howling wilderness, barbarous men and savage beasts, at the expence of their ease and safety of their blood, their treasure and their lives, transplanted and reared the English constitution in these wilds upon the strong pillars of civil and religious liberty, and having lead the way by their great example bequeathed their inestimable purchase as a sacred and unalienable legacy to their posterity, who have ever since united the sincerest loyalty to their sovereign and the warmest affection for their elder brethren in England with the enjoyment of their aforesaid rights, liberties and immunities, nor have they till lately been thought incompatible.

And whereas since the close of the last war the British Parliament claiming a power of right to bind the people of America by statute in all cases whatsoever, hath in some acts expressly imposed taxes upon them, and in others, under various pretences but in fact for the purpose of raising a revenue, hath imposed rates and duties payable in these Colonies, established a Board of Commissioners with unconstitutional powers, and extended the jurisdiction of Courts of Admiralty not only for collecting said duties but also for the tryal of causes merely arising within the body of a county.

And whereas in consequence of other statutes, judges who before held only estates at will in their offices have been made to depend on the crown alone for their salaries, and standing armies kept in time of peace; and it hath been lately resolved in Parliament that by force of a statute made in the thirty-fifth year of the reign of King Henry the eighth, colonists may be transported to England and tryed there upon accusations for treasons and misprisions, or concealment of treasons, committed, or alledged to be committed, in the Colonies; and by a late statute such tryals have been directed in cases therein mentioned.

And whereas three acts of Parliament have been passed, by one of which the Port of Boston is shut up and thousands reduced from affluence to poverty and distress; by another the charter of the Province of the Massachusetts Bay is subverted and destroyed; and by the third, under pretence of the impartial administration of justice, all hope of justice is taken away in certain cases.

And whereas another statute hath been made by which the

Roman Catholic Religion is established, the equitable system of English laws are abolished, and a tyranny erected, in the Province of Quebec, to the great danger of the neighbouring Colonies; and also in the present session of Parliament another act is passed by which the New England Colonies are in a great measure deprived of their trade and fishery, the blessings which God and nature have indulged them being thus attempted by force to be wrested from them.

And whereas all our humble, dutifull and loyal petitions to the throne for redress of grievances have been treated with contempt, or passed by in silence by his Majesty's ministers of state, and the refusal to surrender our just rights, liberties and immunities, hath been stiled Rebellion, and fleets and armies have been sent into a neighbouring Colony to force them to submit to slavery and awe the other Colonies to submission by the example of vengeance inflicted on her, who have, besides the usual calamities and insults that proceed from standing armies, fortified the town of Boston, driven the peaceable inhabitants from their dwellings, and imbrued their hands in the blood of our countrymen; all which acts and measures have relation to all the British Colonies in the principles from which they flow, and are evidently intended to force or terrify them into a submission to Parliamentary taxation, or at least into a surrender of their property at the pleasure of the British Parliament, and in such proportion as they shall please to prescribe with which we must comply or lye at the mercy of those who cannot know our situation and circumstances, and will be interested to oppress and enslave us. Our liberty, our lives and property, will become precarious and dependent upon the will of men over whom we can have no check or controul. Religion, property, personal safety, learning, arts, public and private virtue, social happiness and every blessing attendant on liberty, will fall victime to the principles and measures advanced and pursued against us, whilst shameless vice, infidelity, irreligion, abject dependance, ignorance, superstition, meanness, servility and the whole train of despotism, present themselves to our view in melancholy prospect.

And whereas, although this Assembly wish for no new rights and privileges, and desire only to preserve their antient constitution as it has been understood and practised upon from the beginning, freely yielding to the British Parliament the regulation of our external commerce, for the purpose of securing the commercial advantages of all the dominions of our sovereign to the

mother country, and the commercial benefits of its several members excluding every idea of taxation for raising a revenue without our consent, and claiming only a right to regulate our internal police and government, and are most earnestly desirous of peace and deprecate the horrors of war: Yet, when they see military preparations against them at hand, and the hopes of peace and harmony placed at a greater distance, being fully determined never to make a voluntary sacrifice of their rights, not knowing how soon parliamentary and ministerial vengeance may be directed against them immediately, as it is now against the Province of Massachusets Bay, who are suffering in the common cause of British America, trusting in the justice of their cause and the righteous providence of Almighty God, for the restoration of quiet and peace, or for success in their efforts for their defence, have thought it their duty to raise troops for the defence of this Colony.[59]

There was not much enthusiasm in support of such views in the country west of Albany during the years 1774 and 1775.

Barnabas Deane writes to his brother Silas, June 1st, 1775, from Albany, thus:

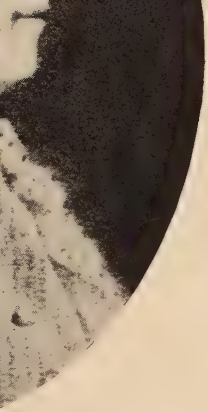
The people of this count(r)y have sent a considerable quantity of provision up, and are now sending off men; but they don't act with that spirit and life that the N. England men have on such occasions. Wherever we find a number of *them* settled down, we find men who are ready and willing to go immediately in defence of their country, which is not the case with people here in general, altho' they seem well disposed in the Common Cause.[60]

Connecticut was recognized as doing her full part.

Silas Deane writes from the Continental Congress at Philadelphia, on June 3, 1775, as follows, to his wife:

The Congress, tho' not numerous, are yet a very unwieldly Body, in their very nature, as no motion or resolution can be started or proposed but what must be subject to much canvassing

[59] Colonial Records of Connecticut, 1775–1776, 18–21.
[60] Collections, Connecticut Historical Society, II, 248.



hiladelphia. B. Read-
y Wm. Richardson.

before it will pass with the unanimous approbation of Thirteen Colonies whose situation and circumstances are various. And Unanimity is the basis on which we mean to rise; and I thank God, it hitherto prevails to a most surprising degree. Besides, our business has run away with us, as I may say, for though the Northern Expedition met with a warm approbation, yet the Resolutions necessary to be formed respecting those posts put by the forming of a general plan of operation, which, had it been previously laid, every such manoeuvre would of course have been provided for at once.

You have an indifferent opinion of the spirit of some in our Assembly. You know my sentiments of them in general, and no man living, I am bold to say, knows them better; but though caution has ever been and is predominant, yet when matters come to a push, no Assembly or Government has behaved better; and indeed, not only the name of a Yankee, but of a Connecticut man in particular, is become very respectable this way, and Governor Trumbull is highly applauded by the Congress, for the letters he has wrote us, and the measures he has pursued as Governor. Indeed now, the Constitution of Connecticut appears in its full lustre, and the whole continent are sensible of its superiority to any other, and must I believe, after all, adopt one similar in each Colony. . . ."

The Colony of Connecticut having their men ready has been of service, and I trust we shall get great share of their expense refunded by the Continent.[61]

A fortnight later he writes his wife again thus:

Gen[l] Washington will be with you soon; elected to that high office by the unanimous voice of all America. I have been with him for a great part of the last forty-eight hours, in Congress and Committee, and the more I am acquainted with, the more I esteem him. He promises me to call, and if it happens favorably, to spend one night with you. I wish to cultivate this gentleman's acquaintance and regard, not from any sinister views, but from the great esteem I have of his virtues, which do not shine in the view of the world, by reason of his great modesty, but when discovered by the discerning eye, shine proportionably brighter. I know you will receive him as my friend, and what is more—infinitely more—his Country's friend; who, sacrificing private fortune,

[61] Collections, Connecticut Historical Society, II, 253, 255.

independent ease, and every domestic pleasure, sets off at his Country's call, to exert himself in her defence, without so much as returning to bid adieu to a fond partner and family. Let our Youth look up to this man as a pattern to form themselves by; who unites the bravery of the soldier with the most consummate modesty and virtue.[62]

The next month he wrote his wife again from Philadelphia, thus:

New England, with all its foibles, must be the glory and defence of America, and the cry here is, Connecticut forever, so high has the universally applauded conduct of our Governor, and the brave intrepidity of old Gen. Putnam and his troops, raised our Colony in the estimation of the whole continent.[63]

In the Summer of 1775 there was an unfortunate dispute as to two of the Connecticut appointments in the Boston army.

A letter from Samuel B. Webb to Silas Deane gives this frank and fair description of it.

I had entirely forgot to mention (to) you the conduct of Gen. Spencer,—which I doubt not you'll hear from several quarters. After intelligence of Putnam's being appointed Major-General, (which, by the by, gave universal satisfaction,) Spencer appeared much chagrined and disappointed; he began to speak very freely, and finally persuaded the officers to remonstrate to the Assembly of Connecticut; and set off immediately for home, without leave or licence from Gen. Washington, which displeased him much.

I cannot imagine our Assembly will be guilty of so great imprudence as to take any notice of the matter. I am sorry to say, your friend Col. Parsons was forward in this matter. I have since been to Roxbury, and find the officers, many of them, heartily sick of what they have done; in particular Major Meiggs, who says he had rather serve under Putnam than Spencer, and says he was forced to sign what the others did, to keep peace. You'll find the Generals Washington and Lee are vastly fonder

[62] Collections, Connecticut Historical Society, II, 264.
[63] Collections, Connecticut Historical Society, II, 283.

and think higher of Putnam than any man in the army: and he truly is the Hero of the day. They have given him the command of Prospect Hill. I find the intention of Spencer was to get our Assembly to remonstrate to the Continental Congress, and beg a re-appointment; but little did he (think) that this could not be done without cashiering Putnam,—as he (is in) possession of his commission; and better for us to lose four S(pencers) than half a Putnam. I think it my duty to write thus freely to you, though perhaps not prudent to have it seen in public.[64]

The next steps were thus recounted in another letter to Mrs. Deane:

I am informed that the late arrangement of affairs is highly displeasing to Wooster and Spencer, and that high words have passed on the occasion; that Wooster talks high of his thirty years' service, and that Spencer left his forces to shift for themselves, though expecting hourly to be attacked, to return home and pray an alteration, I see the bottom of the whole, and am well aware that the storm is raised, or at least blown up by others, and am at no loss to foresee the direction of it; but am determined to do my duty, and will on no occasion sacrifice the good of my country to the whim of any old man, or old woman rather, or their sticklers.

When Wooster was appointed, I washed my hands of the consequences, by declaring him, in my opinion, totally unequal to the service. This I did openly in the face of the Assembly. And if I thought him unfit for a Major General of Connecticut forces only, could any one think I would oppose the voice of the continent and my own sentiments, by laboring to prefer him to Putnam, on whom by every acc^{t} the whole Army has depended, even since the Lexington battle? I wish all such men would leave our army at once. As to Spencer, I once had a good opinion of him, but his leaving the forces in the manner I hear he has, shocks it very greatly, and if true, I wish him to resign at once and let another take his place.

Pray listen to these reports, and inform me how far I am charged with being active in this arrangement. I have various reasons to expect their friends will father it all on the old scape goat; as Sherman is known to be in favor of Wooster, and Dyer and Spencer are brother Councillors.[65]

[64] Collections, Connecticut Historical Society, II, 284–286.
[65] Collections, Connecticut Historical Society, II, 288.

On July 20, 1775, Silas Deane wrote to his wife as follows:

Philadelphia, July 20th, 1775.

My Dear,—Yours of the 13th I received last evening, and am glad to find the good and virtuous of Connecticut are willing to stand by the Resolutions of the Congress, who, in the appointment of Gen. Putnam, acted on principles as much superior to those which actuate the dissatisfied, as Heaven is superior to earth. Putnam's merit rung through this Continent; his fame still increases,—and every day justifies the unanimous applause of the continent. Let it be remembered, he had every vote of the Congress; and his health has been the second or third, at almost all our tables in this city. But it seems he does not wear a large wig, nor screw his countenance into a form that belies the sentiments of his generous soul; he is no adept either at political or religious canting and cozening; he is no shake-hand body; he therefore is totally unfit for everything but fighting; that department, I never heard that these intriguing gentry wanted to interfere with him in. I have scarce any patience. O Heaven! blast, I implore thee, every such low, narrow, selfish, envious manoeuvre in the land, nor let one such succeed far enough to stain the fair page of American patriotic politics!

General Washington writes, that Spencer left his post without so much as waiting on him, or sending him a single word of his intentions. You can be at no loss to infer what opinion is formed of him from this conduct, indoors and out. Suffice it to say, the voice here is, that he acted a part inconsistent with the character either of a soldier, a patriot, or even of a common gentlemen. To desert his post in an hour of danger,—to sacrifice his Country, which he certainly did as far as was in his power,—and to turn his back sullenly on his General, a General too of such exalted worth and character,—will, I can assure you, unless he take the most speedy and effectual measures to atone, draw down upon him the resentment of the whole Continent.

I am daily and hourly making as fair weather as possible of this transaction, and a painful task it is. It is one I am unused to, and therefore labor hard, to gloss over what I condemn from the bottom of my soul. But my principles are (the Eye of my God knows them, and the most envious eye of Man or the bitterest tongue of Slander cannot find anything in my political conduct to contradict them,)—they are, to sacrifice all lesser considerations to the service of the Whole, and in this tempestuous season to

throw cheerfully overboard, private fortune, private emoluments, and all partial or interested views, even my Life,—if the Ship with the jewel Liberty on board may be saved. This being my line of conduct, I have a calmness of mind, I thank God, resulting from such resolutions, which more than balances every external trouble; of which I have not a few, and of which the late conduct of a part of our officers, in support of Spencer, is not the least. Inclosed I send a letter for Parsons, which please to read, then copy, seal, and forward. I will say no more on the very disagreeable subject, than that the copy and this letter may hereafter shew my sentiments at the time.

I am glad our Assembly did not interpose in favor of Spencer. They have hereby acted up to the high character they sustain with the Congress; and the only consistent part he, Spencer, can now act, is to throw up his commission and give place to men who do not think it degrading to serve their country though they have not the highest feather in their cap. Let them look at Major Mifflin, who is a member of the Continental Congress, a respectable one too, yet he condescends to act as Aid-de-camp, and of course ranks no higher than Samuel Webb, whose appoint I rejoice at, and own I procured it for him; but not because he was my friend, but because he merits it, and will, if it please God to preserve him, make an officer of the first rank and character, when some blusterers of the present hour are forgotten,—or I am much mistaken. At the time I recommended Capt. Chester, I did not think he would accept, but I knew he deserved it: On that motive I acted; his conduct has justified my voice in his favor, and will, I doubt not, justify what I have said and wrote to the Generals in his favor; and expect soon to hear of his promotion, which I shall with pleasure.[66]

In July, 1775 the chief officers of the Continental forces were re-arranged.

John Adams writes that there was considerable disapproval of the manner in which honors were given.

Gen. Thomas then headed the army.

Upon the Receipt of General Washington's Letter, the Motion which I made Some Days before for appointing General

[66] Collections, Connecticut Historical Society, II, 289–291.

Thomas first Brigadier was revewed and carried, so that the return of the Express will carry his Commission. I hope that this will give all the satisfaction which is now to be given. You ask me upon what Principle We proceeded in our first Arrangement. I answer upon the Principle of an implicit Complyance with the order in which the General officers were chosen in our Provincial Congress last Fall. Not one of us would have voted for the Generals in the order in which the General Officers were chosen in our Provincial Congress last Fall; Not one of us, would have voted for the Generals in the order in which they were placed, if We had not thought that you had settled the Rank of every one of them last Fall in Provincial Congress, and that We were not at Liberty to make any Alteration. I would not have been so shackled however, if my Colleagues had been of my Mind.

But, in the Case of the Connecticutt officers, We took a Liberty to alter the Rank established by the Colony and by that Means made much Uneasiness; so that We were sure to do Mischief whether We conformed or deviated from Colony arrangements. I rejoice that Thomas had more Wisdom than Spencer or Woorster, and that he did not leave the Camp nor talk imprudently. If he had we should have lost him from the Continental service; for I assure you, Spencer by going off, and Woorster By unguarded Speeches have given high offence here, it will cost us Pains to prevent their being discarded from the service of the Continent with Indignation. Gentlemen here had no private Friendships Connections, or Interests which prompted them to vote for the arrangement they made but were influenced only by a Regard to the Service; and they are determined that their Commissions shall not be despised.

I have read of Times, either in History or Romance, when Great Generals would cheerfully serve their Country, as Captains or Lieutenants of Single Companies, if the Voice of their Country happened not to destine them to an higher Rank; but such exalted Ideas of public Virtue seem to be lost out of the World. Enough of this.[67]

The Colonial period now comes to an end. On July 6, 1775, John Adams wrote to James Warren, enclosing an unsigned memorandum, which shows as by

[67] Warren-Adams Letters, Vol. I, 1743–1777, 85, 86.

a flash light the political situation on the opening of the last year of Colonial life.

Phyladelphia, June (July) 6th, 1775

Dear Sir,—Every line I receive from you gives me great Pleasure and is of vast Use to me in the public Cause. Your Letters were very usefull to me last Fall. Your Character became then known and much esteemed. The few Letters I have recd from you this Time, have increased the Desire of more, and some other Gentlemen who happened to know you, particularly Governor Hopkins and Ward of Rhode Island have confirmed every good opinion which had been formed. I must intreat you to omit no Opportunity of Writing and to be as particular as possible.

Want of frequent Communication and particular Intelligence led us into the unfortunate Arrangement of General Officers which is likely to do so much Hurt. We never recd the most distant Intimation of any Design to new model your Army; and indeed Some of us were obliged to give up our own judgments merely from Respect to what We took to be the Arrangement of our provincial Congress. I have made it my Business ever since I heard of this Error to wait upon Gentn. of the Congress at their Lodgings and elsewhere to let them into the Secret and contrive a Way to get out of the Difficulty, which I hope we shall effect.

I rejoice to hear of the great military Virtues and Abilities of General Thomas.

Alas poor Warren! Dulce et decorum est pro Patria mori. Yet I regret his Appointment to such a Command. For God's sake my Friend let us be upon our Guard, against too much Admiration or our greatest Friends. President of the Congress, Chairman of the Committee of Safety, Major General and Chief Surgeon of the Army, was too much for Mortal, and This Accumulation of Admiration upon one Gentlemen, which among the Hebrews was called Idolatry, has deprived us forever of the Services of one of our best and ablest Men. We have not a sufficient Number of such Men left to be prodigal of their Lives in future.

Every brain is at Work to get Powder and salt-Petre, I hope We shall succeed, but We must be very Oeconomical of that Article. We must not use large Cannon if We can possibly avoid it.

This Letter will go by two fighting Quakers. Mr. Stephen Collins and Mr. John Kaighn (Keays). The first is the most

hospitable benevolent Man alive. He is a Native of Lynn, a brother of Ezra Collins of Boston and is rich and usefull here. The last has been the Instrument of raising a Quaker Company in this City, who behave well and took beautifully in their Uniforms. My love, Duty, Respects etc. where due. Adieu.

John Adams

Secret and Confidential, as the Saying is.

The Congress is not yet so much alarmed as it ought to be. There are still hopes, that Ministry and Parliament, will immediately receed as soon as they hear of the Battle of Lexington, the Spirit of New York and Phyladelphia, the Permanency of the Union of the Colonies etc.: I think they are much deceived and that we shall have nothing but Deceit and Hostility, Fire, Famine, Pestilence and Sword from Administration and Parliament. Yet the Colonies like all Bodies of Men must and will have their Way and their Humour, and even their Whims.

These opinions of Some Colonies which are founded I think in their Wishes and passions, their Hopes and Fears, rather than in Reason and Evidence will give a whimsical Cast to the Proceedings of this Congress. You will see a strange Oscellation between love and hatred, between War and Peace—Preparations for War and Negociations for Peace. We must have a Petition to the King and a delicate Proposal of Negociation, etc. This Negociation I dread like Death: But it must be proposed. We cant avoid it. Discord and total Disunion would be the certain Effect of a resolute Refusal to petition and negociate. My hopes are that Ministry will be afraid of Negociation as well as We and therefore refuse it. If they agree to it, We shall have occasion for all our Wit Vigilance and Virtue to avoid being deceived, wheedled threatened of bribed out of our Freedom. If we strenuously insist upon our Liberties, as I hope and am pretty sure We shall however, a Negociation, if agreed to, will terminate in Nothing. It will effect nothing. We may possibly gain Time and Powder and Arms.

You will see an Address to the People of G. Britain, another to those of Ireland, and another to Jamaica.

You will also see a Spirited Manifesto. We ought immediately to dissolve all Ministerial Turannies, and Custom houses, set up Governments of our own, like that of Connecticutt in all the Colonies, confederate together like an indissoluble Band, for mutual defence, and open our Ports to all Nations immediately. This is the system that your Friend has arrived at promoting

from first to last: But the Colonies are not yet ripe for it—a Bill of Attainder, etc., may soon ripen them.[68]

Political prisoners began to stream in. On November 22, 1775, the records of the Colony have the following entries:

Dr. Church having arrived in this town yesterday, sent by Gen[l] Washington, under guard of Cap. Putnam, a sergeant and 7 men, pursuant to a resolve of the General Congress of the following tenor, (inclosed by said general,) viz:

Resolved, That Dr. Church be close confined in some secure gaol in the Colony of Connecticut, without the use of pen, ink and paper, and that no person be allowed to converse with him, except in the presence and hearing of a magistrate of the town or the sheriff of the county where he shall be confined, and in the English language, until further orders from this or a future Congress.

By order of the Congress. John Hancock, President. Attest. Charles Thompson, Secretary.

Philadelphia 6 Nov. 1775.

And underwritten,

Sir: In consequence of the above resolve, I now transmit to your care Dr. Church, under the guard of Cap. Isr[l] Putnam, a sergeant and 7 men. You will please to comply in every particular with the above resolution of Congress.

I am, with great respect, S[r], y[r] most h. and ob[t] serv[t].

G[o] Washinfton.

The foregoing being laid before this Board for advice &c., on consideration,

Voted and resolved. That said Dr. Church be committed to and confined and kept in the same manner as ordered by said Congress, in the gaol in Norwich in the county of New London, until further orders from said Congress and this Board. (And order is given out accordingly).[69]

The Dr. Church thus mentioned was Dr. Benjamin Church. He stood high in the community before the

[68] Warren-Adams Letters, Vol. I, 73–75.
[69] Colonial Records of Connecticut, 1775–1776, 179, 181.

Revolution. His arrest was a great surprise; but he had written a treasonable letter and admitted that he had. John Adams referred thus to the incident, in a letter to James Warren:

At the story of the Surgeon General I stand astonished. A Man of Genius, of Learning, of Family, of Character, a Writer of Liberty Songs and good ones too, a Speaker of Liberty orations, a Member of the Boston Committee of Correspondence, a Member of the Massachusetts Congress, an Agent for that Congress to the Continental Congress, a Member of the House, a Director General of the Hospital and Surgeon General—Good God! What shall We say of human Nature? What shall We say of American Patriots? or rather what will the World say? The World however, will not be too severe. Indeed, Sir, We ought to expect in a Contest like this, however we may detest, such Examples as this.[70]

Later Dr. Church was sentenced to imprisonment for life.

A statute was passed in December, 1775, for the confiscation of the land of disaffected persons

who have since the making of this act put, or shall continue to hold and screen themselves under the protection of the ministerial army or navy, or have aided or assisted in carrying into execution the present ministerial measures against America.[71]

The Council of Safety at this time were anxiously searching for new or better modes of defence. The following minute shows that the Colony authorities were looking far ahead on such lines:

A good deal of consideration having been had about getting along with and carrying on fortifications at N. London and Groton &c., according to the direction of the Assembly,

[70] Warren-Adams Letters, Vol. 1, 1743–1777, 137.
[71] Colonial Records of Connecticut, 1775–1776, 194.

Bronze Statue of General Israel Putnam, 1718–1790. Bushnell Park, Hartford.
J. Q. A. Ward, Sculptor.

Voted, that Col. Dyar and Esq. Wales be and they are appointed a committee and instructed to repair to New London and Groton, view and examine the ground and places where fortifications are proposed to be erected and where some are begun, for defence of those places, and form the best judgment they shall be able of the particular places and parts where the same ought to be made and carried on to the best advantage, and to consider how many men ought to be raised and employed to carry on said works at each of said places, for proper security, and how soon said works may be undertaken and carried on to advantage, and under whose conduct and command, and to consider of proper persons to oversee and direct the work; also, to consider of the expediency of removing some and how many of the cannon, the ball, powder and necessary implements, from N. London to works erected or to be erected on Groton Hill; and whether any part of the company now raised at N. London should be discharged; and also of the propriety and safety of the Colony's powder and other military stores remaining where they are, in a magazine near the water in N. London; and whether any part and how much ought to be removed and where to be safely deposited; and such other matters as they may judge to concern the safety, interest and defence of those places, so far as respects the common good; and of facts with their opinion make report to this Board as soon as may be.

And voted also, That Col. Sam[ll] Mott be desired to attend with said committee.

Mr. Bushnell was here, by request of the Governor and Council, and gave an account of his machine contrived to blow ships &c., and was asked many questions about it &c. &c., and being retired, on consideration, voted, that we hold ourselves under obligations of secrecy about it. And his Honor the D. Governor is desired to reward him for his trouble and expence in coming here and signifie to him that we approve of his plan and that it will be agreeable to have him proceed to make every necessary preparation and experiment about it, with expectation of proper public notice and reward.[72]

Whereas it is recommended by the Honorable Continental Congress to the several legislatures in the United Colonies, as soon as possible, to erect courts of justice or give jurisdiction to the courts now in being, for the purpose of determining concerning captures &c., and to provide that all tryals in such case be had by

[72] Colonial Records of Connecticut, 1775–1776, 233.

a jury, under such qualifications as to the respective legislatures shall seem expedient,

Be it therefore enacted by the Governor, Council and Representatives, in General Court assembled, and by the authority of the same, That the respective county courts in this Colony be and they are hereby authorized, impowered, constituted and appointed, to try, judge and determine, by jury or otherwise, as in other case, concerning all captures that have or shall be taken and brought into said respective counties. And that the civil law, the laws of nations, and the resolutions of Congress, be the rule of their adjudications, determinations and proceedings therein. And said respective county courts are hereby authorized and impowered, to constitute and appoint such proper officers under them as they shall find necessary and expedient for the purposes aforesaid.

Be it further enacted by the authority aforesaid, That appeals be allowed to the Continental Congress, under the restrictions and agreeable to the directions and resolves of said Congress. And that the fees for said court and the respective officers thereof be reasonable and such as are customary in the neighbouring Colonies, or may be established by said Congress or by this Assembly. And the judge of said respective county courts is hereby authorized to call said court for said purpose at any place within the respective counties as shall be most convenient and expedient.[73]

On June 14, 1776, the General Court of Connecticut voted as follows:

Whereas the King and Parliament of Great Britain by many acts of said Parliament have claimed and attempted to exercise powers incompatible with and subversive of the antient just and constitutional rights of this and the rest of the English colonies in America, and have refused to listen to their many and frequent humble, decent and dutiful petitions for redress of grievances and restoration of such their rights and liberties, and turning from them with neglect and contempt to support such claims after a series of accumulated wrong and injury have proceeded to invade said Colonies with fleets and armies, to destroy our towns, shed the blood of our countrymen, and involve us in the calamities incident to war, and are endeavoring to reduce us to

[73] Colonial Records of Connecticut, 1775–1776, 280, 281.

an abject surrender of our natural and stipulated rights, and subject our property to the most precarious dependence on their arbitrary will and pleasure, and our persons to slavery; and at length have declared us out of the King's protection, have engaged foreign mercenaries against us, and are evidently and strenuously seeking our ruin and destruction. These and many other transactions, too well known to need enumeration, the painful experience and effects of which we have suffered and feel, make it evident beyond the possibility of a doubt, that we have nothing to hope from the justice, humanity or temperate councils of the British King or his Parliament, and that all hopes of a reconciliation upon just and equal terms are delusory and vain. In this state of extreme danger, when no alternative is left us but absolute and indefinite submission to such claims as must terminate in the extreme of misery and wretchedness or a total separation from the King of Great Britain and renunciation of all connection with that nation, and a successful resistance to that force which is intended to effect our destruction: Appealing to that God who knows the secrets of all hearts for the sincerity of former declarations of our desire to preserve the antient and constitutional relation to that nation, and protesting solemnly against their oppression and injustice, which have driven us from them and compelled us to use such means as God in his providence hath put in our power for our necessary defence and preservation:

Resolved unanimously by this Assembly, That the Delegates of this Colony in General Congress be and they are hereby instructed to propose to that respectable body, to declare the United American Colonies Free and Independent States, absolved from all allegiance to the King of Great Britain, and to give the assent of this Colony to such declaration when they shall judge it expedient and best, and to whatever measures may be thought proper and necessary by the Congress for forming foreign alliances, or any plan of operation for necessary and mutual defence. And also, that they move and promote, as fast as may be convenient, a regular and permanent Plan of Union and Confederation of the Colonies, for the security and preservation of their just rights and liberties and for mutual defence and security: saving that the administration of government and the power of forming governments for, and the regulation of the internal concerns and police of each Colony, ought to be left and remain to the respective Colonial Legislatures; and also that such plan of con-

federation be laid before such respective legislatures for their previous consideration and assent.[74]

This was followed up on June 18 by a proclamation from the Governor, a little more emphatic as to setting up a permanent confederacy.

By the Honorable
Jonathan Trumbull, Esq;
Governor and Commander in Chief of the English Colony of Connecticut in New England.

A Proclamation.

The race of Mankind was made in a State of Innocence and Freedom, subjected only to the Laws of God the Creator, and through his rich Goodness, designed for virtuous Liberty and Happiness here and forever; and when moral Evil was introduced into the World, and Man had corrupted his Ways before God, Vice and Iniquity came in like a Flood, and Mankind became exposed, and a prey to the Violence, Injustice and Oppression of one another. God, in great Mercy, inclined his People to form themselves into Society, and to set up and establish civil Government for the Protection and Security of their Lives and Properties from the Invasion of Wicked Men: But through Pride and Ambition, the Kings and Princes of the World, appointed by the People the Guardians of their Lives and Liberties, early and almost universally, degenerated into Tyrants, and by Fraud or Force betrayed and wrested out of their Hands the very Rights and Properties they were appointed to protect and defend. But a small Part of the Human Race maintained and enjoyed any tolerable Degree of Freedom. Among those happy Few the Nation of Great-Britain was distinguished, by a Constitution of Government wisely framed and modelled, to support the Dignity and Power of the Prince, for the Protection of the Rights of the People; and under which, that Country in long Succession, enjoyed great Tranquility and Peace, though not unattended with repeated and powerful Efforts, by many of its haughty Kings, to destroy the constitutional Rights of the People, and establish arbitrary Power and Dominion. In one of those convulsive

[74] Colonial Records of Connecticut, 1775–1776, 414–416.

Struggles, our Forefathers having suffered in that, their native Country, great and variety of Injustice and Oppression, left their dear Connections and Enjoyments, and fled to this then inhospitable Land, to secure a lasting Retreat from civil and religious Tyranny.

The God of Heaven favored and prospered their Undertaking —made Room for their Settlement—increased and multiplied them to a very numerous People, and inclined succeeding Kings to indulge them and their Children for many Years, the unmolested Enjoyment of the Freedom and Liberty they fled to inherit: But an unnatural King has risen up—violated his sacred Obligations, and by the Advice of evil Counsellors, attempted to wrest from us, their Children, the sacred Rights we justly claim, and which have been ratified and established by solemn Compact with, and recognized by, his Predecessors and Fathers, King's of Great-Britain—laid upon us Burdens too heavy and grievous to be born, and issued many cruel and oppressive Edicts, depriving us of our natural, lawful, and most important Rights, and subjecting us to the absolute Power and Controul of himself, and the British Legislature; against which we have sought relief by humble, earnest and dutiful Complaints and Petitions: But, instead of obtaining Redress, our Petitions have been treated with Scorn and Contempt, and fresh Injuries heaped upon us, while hostile Armies and Ships are sent to destroy and lay waste our Country. In this distressing Dilemma, having no Alternative but absolute Slavery, or successful Resistance; this, and the United American Colonies, have been constrained by the over-ruling Laws of Self-Preservation, to take up Arms for the Defence of all that is sacred and dear to Freemen, and make their solemn Appeal to Heaven for the Justice of their Cause, and resist Force by Force.

God Almighty has been pleased, of his infinite Mercy, to succeed our Attempts, and give us many Instances of signal Success and Deliverance; but the Wrath of the King is still increasing, and not content with before employing all the Force which can be sent from his own Kingdom to execute his cruel Purposes, has procured, and is sending all the Mercenaries he can obtain from foreign Countries, to assist in extirpating the Rights of America, and with their's, almost all the Liberty remaining among Mankind.

In this most critical and alarming Situation, this, and all the Colonies, are called upon, and earnestly pressed, by the honorable CONGRESS of the American Colonies, united for mutual De-

fence, to raise a large additional Number of their Militia and able Men, to be furnished and equipped with all possible Expedition, for Defence against the soon expected Attack and Invasion of those who are our Enemies without a Cause. In cheerful Compliance with which Request, and urged by Motives the most cogent and important that can affect the human Mind, the General Assembly of this Colony have freely and unanimously agreed and resolved, that upwards of Seven Thousand able and effective Men be immediately raised, furnished and equipped, for the great and interesting Purposes aforesaid. And not Desirous that any should go to a Warfare at their own Charges, (though equally interested with others) for defence of the great and all-important Cause in which we are engaged, have granted large and liberal Pay and Encouragements, to all who shall voluntarily undertake for the Defence of themselves and their Country, as by their Acts may appear.

I Do Therefore, by and with the Advice of the Council, and at the Desire of the Representatives in General Court assembled, issue this PROCLAMATION, and make the solemn Appeal of said Assembly to the Virtue and public Spirit of the good People of this Colony. Affairs are hastening fast to a Crisis, and the aproaching Campaign will, in all Probability, determine forever the Fate of America. If this should be successful on our Side, there is little to fear on Account of any other. Be exhorted to rise, therefore, to superior Exertions on this great Occasion; and let all that are able and necessary, shew themselves ready in Behalf of their injured and oppressed Country, and come forth to the Help of the Lord against the Mighty, and convince the unrelenting Tyrant of Britain, that they are resolved to be Free. Let them step forth to defend their Wives, their little Ones, their Liberty, and everything they hold sacred and dear, to defend the Cause of their Country, their Religion and their God. Let every one to the utmost of their Power, lend a helping Hand to promote and forward a Design on which the Salvation of America now evidently depends. Nor need any be dismayed: the Cause is certainly a just and a glorious one: God is able to save us in such Way and Manner as he pleases, and to humble our proud Oppressors. The Cause is that of Truth and Justice; he has already shewn his Power in our Behalf, and for the Destruction of many of our Enemies. Our Fathers trusted in him and were delivered. Let us all repent, and thoroughly amend our Ways,

and turn to him, put all our Trust and Confidence in him—in his Name go forth, and in his Name set up our Banners, and he will save us with temporal and eternal Salvation. And while our Armies are Abroad, jeoparding their Lives in the high Places of the Field, let all who remain at Home, cry mightily to God for the Protection of his Providence, to shield and defend their Lives from Death, and to crown them with Victory and Success. And in the Name of the said General Assembly, I do hereby earnestly recommend it to all, both Ministers and People, frequently to meet together for social Prayer to Almighty God, for the outpouring of his blessed Spirit upon this guilty Land—That he would awaken his People to Righteousness and Repentance—bless our Councils—prosper our Arms, and succeed the Measures using for our necessary Self-Defence—disappoint the evil and cruel Devices of our Enemies—preserve our precious Rights and Liberties—lengthen out our Tranquility, and make us a People of his Praise, and the blessed of the Lord, as long as the Sun and Moon shall endure.

And all the Ministers of the Gospel in this Colony, are directed and desired to publish this Proclamation in their several Churches and Congregations, and to enforce the Exhortations thereof by their own pious Example and public Instructions.

GIVEN under my Hand, at the Council Chamber in Hartford, the 18th day of June, Anno Domini 1776.

JONATHAN TRUMBULL.[75]

On June 15, 1776, the General Court of Connecticut followed Virginia in authorizing her delegates in the Continental Congress to join in a declaration of independence. The action taken was this:

Whereas the King and Parliament of Great Britain by many acts of said Parliament have claimed and attempted to exercise powers incompatible with and subversive of the antient just and constitutional rights of this and the rest of the English colonies in America, and have refused to listen to their many and frequent humble, decent and dutiful petitions for redress of grievances and restoration of such their rights and liberties, and turning from them with neglect and contempt to support such claims after

[75] Colonial Records of Connecticut, 1775–1776, 450–453.

a series of accumulated wrong and injury have proceeded to invade said Colonies with fleets and armies, to destroy our towns, shed the blood of our countrymen, and involve us in the calamities incident to war, and are endeavoring to reduce us to an abject surrender of our natural and stipulated rights, and subject our property to the most precarious dependence on their arbitrary will and pleasure, and our persons to slavery; and at length have declared us out of the King's protection, have engaged foreign mercenaries against us, and are evidently and strenuously seeking our ruin and destruction. These and many other transactions, too well known to need enumeration, the painful experience and effects of which we have suffered and feel, make it evident beyond the possibility of a doubt, that we have nothing to hope from the justice, humanity or temperate councils of the British King or his Parliament, and that all hopes of a reconciliation upon just and equal terms are delusory and vain. In this state of extreme danger, when no alternative is left us but absolute and indefinite submission to such claims as must terminate in the extreme of misery and wretchedness or a total separation from the King of Great Britain and renunciation of all connection with that nation, and a successful resistance to that force which is intended to effect our destruction: Appealing to that God who knows the secrets of all hearts for the sincerity of former declarations of our desire to preserve our antient and constitutional relation to that nation, and protesting solemnly against their oppression and injustice, which have driven us from them and compelled us to use such means as God in his providence hath put in our power for our necessary defence and preservation:

Resolved unanimously by this Assembly, That the Delegates of this Colony in General Congress be and they are hereby instructed to propose to that respectable body, to declare the United American Colonies Free and Independent States, absolved from all allegiance to the King of Great Britain, and to give the assent of this Colony to such declaration when they shall judge it expedient and best, and to whatever measures may be thought proper and necessary by the Congress for forming foreign alliances, or any plan of operation for necessary and mutual defence. And also, that they move and promote, as fast as may be convenient, a regular and permanent Plan of Union and Confederation of the Colonies, for the security and preservation of their just rights and liberties and for mutual defence and security; saving that the ad-

ROGER SHERMAN—1721–1793
Signer of the Declaration of Independence and Leader in the Federal Constitutional Convention 1787

ministration of government and the power of forming governments for, and the regulation of the internal concerns and police of each Colony, ought to be left and remain to the respective Colonial Legislatures; and also, that such plan of confederation be laid before such respective legislatures for their previous consideration and consent.[76]

The commission to the delegates appointed to represent Connecticut at the Continental Congress at Philadelphia in 1776, is as follows:

Resolved by this Assembly, That Roger Sherman, Oliver Wolcott, Samuel Huntinton, Titus Hosmer and William Williams, Esq[rs], be and they are hereby appointed Delegates to represent this Colony at the General Congress of the United Colonies in America for the year ensuing, and until new be chosen. That is to say, the said Roger Sherman, Oliver Wolcott and Samuel Huntington, Esq[rs], do attend said Congress, and on the failure of either of the said gentlemen by sickness or otherwise, then the said Titus Hosmer or William Williams, Esq[rs], are to supply the place or places of any or either of the said three gentlemen first named; in such manner that three of said Delegates, and three only, do attend said Congress at any one time. And the said three Delegates, or any or either of them who shall be present in said Congress, are hereby fully authorized and impowered to represent this Colony in said Congress, to consult, advise and resolve upon measures necessary to be taken and pursued for the defence, security and preservation of the rights and liberties of the said United Colonies, and for their common safety; and of such their proceedings and resolves they do transmit authentic copies from time to time to the General Assembly of this Colony. That the said Delegates now appointed do repair and take their seats in said Congress by the first day of January next, in case said Congress shall be convened; and that the said gentlemen who are now attending said Congress in behalf of this Colony do continue in their said office until the gentlemen now chosen and are directed to attend in manner aforesaid shall arrive at said Congess.[77]

[76] Colonial Records of Connecticut, 1775–1776, 414–416.
[77] Colonial Records of Connecticut, 1775–1776, 136.

The Colonial period in the history of Connecticut ended on July 4, 1776. Then there was a change of sovereigns.

She had asserted her independence of Great Britain. Now she was to prove it. She did, to the acceptance of her former sovereign and of the civilized world.

Chapter IV

RELIGION—EDUCATION—LAW

IN JUNE, 1639, the foundation of the Quinnipiack church was fully completed, and the first act done was to repeal "all former power or trust" . . . "and this charge was given and accepted by them:

If you shall know any person or persons w^ch intend, plott, or conspire any thing w^ch tends to the hurt or prejudice of this Jurisdiction or the ciuill gournment here settled, you shall forthw^th discouer itt to the magistrates, or to one or more of the Deputies who shalbe chosen and intrusted in the publique occasions of the same, you shall assist and be help full therevnto w^th body, minde and goods, in any thing w^ch may concerne the safety or promove the peace and welfare thereof, as God shall giue ability and opportunity. And you shall be subject to all lawes and orders w^ch according to God shall be made by the court, to the vttmost of yor power.

This fundamental agreement ended as follows:

It was further agreed thatt there should be a renewing of the choyce of all offi(cers) euery yeare att a Generall Court to be held for this plantatio the last weeke in October yearely. And thatt the words of God shall be the onely rule to be attended vnto in ordering the affayres of gouernment in this plantatio.[1]

The Founders of the Colony of Connecticut and of Quinnipiack were actuated by three main motives. They wished to escape molestation for their religious beliefs and mode of worship; to live where they could regulate the mode of worship of the community; and to find means of comfortable support. Those who came on the Mayflower were mainly "Separatists."

[1] New Haven Colon. Records, 1638–1649: 20–21.

That name was given to those who wished to avoid participation in any of the public services of the Church of England.

A high authority has given these definitions:

> In the old world on the other side of the ocean, the Puritan was a Nationalist, believing that a Christian nation is a Christian church, and demanding that the Church of England should be thoroughly reformed; while the Pilgrim was a Separatist not only from the Anglican Prayerbook and Queen Elizabeth's episcopacy, but from all national churches. Between them there was a sharp contention—a controversy quite as earnest and almost as bitter as that which they both had with the ecclesiastico-political power that oppressed them both, fining and imprisoning the Puritan, and visiting upon the Separatist the added penalties of exile and the gallows. The Pilgrim wanted liberty for himself and his wife and little ones, and for his brethren, to walk with God in a Christian life as the rules and motives of such a life were revealed to him from God's Word. For that he went into exile; for that he crossed the ocean; for that he made his home in a wilderness. The Puritan's idea was not liberty, but right government in church and state—such government as should not only permit him, but also compel other men to walk in the right way.[2]

A letter of Mr. Cotton on April 7, 1630, written on board the Arabella, which was bound for New England, was meant to assure those who read it that the Arabella party were not Separatists, though it would be possible to consider them as Independents. The direction of the letter is significant:—"To the Rest of their Brethren in and of the Church of England," and the address is to "the Reverend Fathers and Brethren."[3]

Cotton Mather's *Magnalia* gives a chapter to the "Essays and Causes which produced the second but

[2] Bacon, Genesis of the New England Churches, x.
[3] Hutchinson, History of Mass. Bay, I. 487.

largest Colony of New England." The first Colony to which he refers was that made under the charter for North Virginia, and religion had little to do with the Virginia settlement. Most of the New England colonists were driven from England by persecution for offences against laws respecting religious worship. Mather describes and limits it thus:

> It was Persecution; a fury which we consider not as possessing the Church of England, but as inspiring a party which have unjustly challenged the name of the Church of England, and which, whenever the Church of England shall any more encourage her fall, will become like that of the house which our Saviour saw built upon the sand.
>
> There were more than a few attempts of the English, to people and improve the parts of New-England, which were to the northward of New-Plymouth; but the designs of those attempts being aimed no higher than the advancement of some worldly interests, a constant series of disasters has confounded them, until there was a plantation erected upon the nobler designs of christianity; and that plantation, though it has had more adversaries than perhaps any one upon earth; yet, having obtained help from God, it continues to this day. There have been very fine settlements in the north-east regions; but what is become of them? But the same or the like inauspicious thing attended many other endeavours, to make plantations upon such a main end in several other parts of our country, before the arrival of those by whom the Massachusetts colony was at last formed upon more glorious aims: all proving like the habitations of the foolish, cursed before they had taken root.[4]

The Independents and Separatists did not intend to plant religious freedom here. They wanted to secure authority to make it uncomfortable for others than the adherents of the new order not to join them outwardly, at least.

The first public voice from the pulpit against heresy

[4] Magnalia, I, 61, 62.

hunting came from Cotton Mather. In May, 1692, we find this entry in his diary:

A Great and General Assembly was now called; and it was a Time, on that account, whereof it might bee said of the Inhabitants of this Province as of the Romans, on another Occasion. They had never seen a greater Day. By the Providence of God, it then fell unto me, to preach unto this Assembly; which I did, on 2. Chron. 12. 12, bearing as full a Testimony, as I was able, unto all those things, wherein I say the Interests of my Countrey. Among other things, the Hazard of much Reproch by testifying in that Sermon, against the Persecution of erroneous and conscientious Dissenters, by the civil Magistrate. I feared, that the Zeal of my Countrey had formerly had in it more Fire than should have been; especially when the mad Quakers were sent unto the Gallowes, that should have been kept rather in a Bedlam. I did therefore on this great Occasion bear my Testimony; hoping, that if the General Assembly now thank'd mee for it, their doing so, would bee accepted both by God and Man. I think, I am the only Minister Living in the Land, that have testified against the Suppression of Haeresy, by Persecution. And I hope, the Lord will own mee with a more singular Success, in the Suppression of Haeresy by Endeavours more spiritual and evangelical.[5]

Correspondence was had in 1667, as follows with Massachusetts, respecting a Synod:

Hartford, Octob^{r} 16, 1667.

Honrd, Gent: We have herewthall sent unto you the enclosed viz: our Order or agreem^{t} to concurre with yo^{r}selves & our other confederates about a Gen^{ll} Convention or Synod for clearing vp the truth in some matters controversall that are stirring not onely amongst vs but elsewher in y^{e} Country, at least some of them; w^{ch} being of common concernm^{t}, we take notice of w^{t} is recommended by the Comm^{rs} at y^{r} late Session here, vpon that acco^{t}. Wherein the place of meeting for such a convention is propounded to be at or near Boston, w^{ch} giues us occasion onely to p^{r}sent w^{t} is with vs as a ground for such a meeting to be indifferently

[5] Dairy of Cotton Mather, Part I, 149.

called or invited out of all y^e^ three Colonyes, and so leaue it with yourselues to apoint time and place convenient. That being done and signifyed vnto our Gov^r^, wilbe imparted vnto the Churches & plantations in this Colony for their attendance accordingly, whose readines to serve their generations in such a worke as this (we hope) shall not be wanting. If you please to take in with our motion & desire herein, and do settle y^e^ affaire, it would be acceptable that what is with you of such nature meet to be then debated, &c. may (in some coppy thereof) be sent hither also, and ours returned to you, sometime before y^e^ session, to ripen thoughts vpon p^r^paratorily. And the Good Lord direct and incline all our hearts into y^e^ knowledge and love of his Truth, and grant the vnity of the spirrit and the bond of peace vnto all the Churches in New England. So prays, Gentlemen,

Yo^r^ reall friends & confederates,
y^e^ Gen^ll^ Assembly of the Colony
of Connecticut.

Signed p^r^ order, p^r^ me,
John Allyn, Secretary.

To the Hon^rd^ Rich: Bellingham Esq^r^,
Gov^r^ of his Ma^ties^ Colony of Massachusets,
and the Gen^ll^ Court, &c. This in Boston.[6]

Gent^n^, And our loving freinds. Wee haue receaued yours of the 16^th^ of this Instant, by Mr. Whiting, signifying thereby your desire of a Synod, for the clearing vp the truth of God, in some particulars vnder debate among yourselues; and wee finde by the returne of the Comissioners for the Colonys that your motion herein in consonant to the proposall made by them at their last meeting in your Colony. Wee also find in the abouesayd returne seuerall considerations propounded whereof in yours no notice is taken, some whereof are more especially left with yourselues, and on your answer thereto the establishment of the articles for our mutuall Confoederation doth seeme greatly to depend; and others more generally referring to all the Colonies for their acceptation, as to them shall seeme meete; whose resolue will be obstructed vntill your concession to those proposalls that referr to yourselues be declared and sent to them respectiuely.

In the meane time, that wee may be no obstruction to your pious motion for a mutuall accord in searching out the mind of God in any matters of publique concernment to the churches of

[6] Colonial Records of Connecticut, 1665–1677, 516.

Christ, wee shall and heereby declare ourselues to be alwayes ready to yeald such help as the Lord shall afford us; but the Quaestions among you not being sent vnto vs, wee cannot satisfy our vnderstandings to the accomodating of your desires vntill you shall give vs oppertunity to consider of them, by your sending them to vs; which being done, wee endeauour to doe what wee shall vnderstand to be the mind of the Lord for oyur help and assistance in the maintenance of peace and truth; which blessing of the Gospell of our Lord Jesus Christ, that it may be continued to you and us, and all the Churches, and to the rising generation, is the vnfeigned prayer of

Gentlemen, Your loving Brethren & Freinds,
Edward Rawson, Secret^ry.

In the name & by order of the Generall Court
for the Colony of the Massachusets.

Boston, in New England,
31^st^ of October, 1667.

(Superscribed,) These, For the much Honoured Jno. Winthrop Esq. Gov^r^ of his Maj^tys^ Colony of Conecticott. To be communicated to the Honr^d^ Gen^ll^ Court of that Colony,—be d'd, at Hartford.[7]

Evidently the action in favor of a synod was deemed unwise by a considerable number of the ministers of the Colony, for the next General Court modified it thus:

Whereas the Gen^ll^ Assembly in October last did see a necessity to take some course for the stateing and issueing of such ecclesiasticall matters and questions as are amongst us, and therefore thought it expedient to call the seuerall ministers in this Colony to conveen togather to consider of and dispute such questions as by the sayd Court should be presented to them, and in that order stiled them a Synod, vpon farther consideration this Court sees cause to vary that title, and to stile them an Assembly of the ministers of this Colony called together by the Generall Court for the discursing of the questions stated according to the former order.[8]

[7] Colonial Records of Connecticut, 1665–1677, 517.
[8] Colonial Records of Connecticut, 1665–1667, 67.

The following letters were exchanged between Massachusetts and Connecticut:

Hartford, Octob^{r} 16, 1667.

Honrd Gent: We have herewthall sent vnto you the enclosed viz: our Order or agreem^{t} to concurre with yo^{r}selves & our other confederates about a Gen^{ll} Convention or Synod for clearing vp the truth in some matters controversall that are stirring not onely amongst vs but elsewher in y^{e} Country, at lēast some of them; w^{ch} being of common concernm^{t}, we take notice of w^{t} is recommended by the Comm^{ts} at y^{r} late Sēssion here, vpon y^{t} acco^{t}. Wherein, the place of meeting for such a convention is propounded to be at or near Boston, w^{ch} giues us occasion onely to p^{r}sent w^{t} it with vs as a ground for such a meeting to be indifferently called or invited out of all y^{e} three Colonyes, and so leaue it with yourselues to apoint time and place convenient. That being done and signifyed vnto our Gov^{r}, wilbe imparted vnto the Churches & plantations in this Colony for their attendance accordingly, whose readiness to serve their generations in such a worke as this (we hope) shall not be wanting. If you please to take in with our motion & desire herein, and do settle y^{e} affaire, it would be acceptable that what is with you of such nature meet to be then debated, &c. may (in some copy thereof) be sent hither also, and ours returned to you, sometime before y^{e} session, to ripen thoughts vpon p^{r}paratorily. And the Good Lord direct and incline all our hearts into y^{e} knowledge and love of his Truth, and grant the vnity of spirrit and the bond of peace vnto all the Churches in New England. So prays, Gentlemen,

Yo^{r} reall friends & confederates,
y^{e} Gen^{ll} Assembly of the Colony
of Connecticut. Signed p^{r} order, p^{r} me,
John Allyn, Secretary.

To the Honrd Rich: Bellingham Esq^{r},
Gov^{r} of his Ma^{ties} Colony of Massachusets,
and the Gen^{ll} Court, &c. This in Boston.

Gent^{n}, And our loving freinds. Wee haue receaued yours of the 16th of this Instant, by Mr. Whiting, signifying thereby your desire of a Synod, for the clearing vp the truth of God, in some particulars vnder debate among yourselues; and wee finde by the returne of the Comissioners for the Colonys that your motion herein is consonant to the proposall made by them at their last meeting in your Colony. Wee also finde in the abouesayd re-

turne seuerall considerations propounded whereof in yours no notice is taken, some whereof are more especially left with yourselues, and on your answer thereto the establishment of the articles for our mutuall Confederation doth seeme greatly to depend; and others, more generally referring to all the Colonies for their acceptation, as to them shall seeme meete; whose resolue will be obstructed vntil your concession to those proposalls that referr to yourselues be declared and sent to them respectiuely.

In the meane time, that wee may be no obstruction to your pious motion for a mutuall accord in searching out the mind of God in any matters of publique concernment to the churches of Christ, wee shall and heereby declare ourselues to be alwayes ready to yeald such help as the Lord shall afford us; but the Quaestions among you not being sent vnto vs, wee cannot satisfy our vnderstandings to the accommodating of your desires vntill you shall give vs oppertunity to consider of them, by your sending them to vs; which being done, wee shall endeauour to doe what wee shall vnderstand to be the mind of the Lord for your help and assistance in the maintenance of peace and truth; which blessing of the Gospell of our Lord Jesus Christ, that it may be continued to you and us, and all the Churches, and to the rising generation, is the vnfeigned prayer of

Gentlemen, Your loving Brethren & Freinds,
Edward Rawson, Secret^r^y.

In the name & by order of the Generall Court
for the Colony of the Massachusets.

Boston, in New England,
31^st^ of October, 1667.[9]

On October 10, 1667, the matter of the synod was also considered.

The United Colonies of New England had meanwhile taken it up, and given their advice. That advice was briefly considered and the following action taken by the Connecticut General Court:

The Hono^rd^ Commissioners of the Vnited Colonyes at their meeting at Hartford, Sept^r^ last, haueing recommended it to the Generall Courts of the severall Colonyes, that when questions of

[9] Colonial Records of Connecticut, 1665–1667, 516.

publique concernm^t about matters of Fayth & order doe arise in any Colony, that the decission thereof should be referred to a Sinod or Councill of Messengers of churches indifferently called out of the Vnited Colonyes, by an orderly agreement of all the Generall Courts, and that the place of meeting be at or near Boston, And whereas the Reverend Mr. John Warham, Mr. Sam^ll Hooker & Mr. John Whitting, by a writing subscribed by them, presented the desires of the Assembly of Ministers of this Colony, that there might be a more generall convention of meet persons sent from the churches from the Massachusetts & o^rselves, for the consideration and decission of such questions as haue beene by this Assembly, Octob^r, sixty-six, presented to the sayd assembly of Ministers, This Court haueing considered the premises, thought good to declare that those Questions formerly stated, Octob^r, sixty-six, and recommended to the sayd assembly of Ministers, May last, have not as yet had any decission: And that they doe desire the seuerall churches & plantations in this Colony, upon theire owne charge, to send their teaching elders or ministers to joyne in councill w^th such of the Massachusetts & Plimouth as shall be appoynted to attend the consideration and issue of such controversall poynts, and desire that the same may be signifyed to the Generall Assembly of the Massachusets; and that they are desired to appoynt the time & place of meeting, if they see cause.[10]

The term "synod" has a technical signification, as already stated in a previous chapter. The term carries with it ordinarily a grant of the power of restraint, whereas the genius of Congregationalism is not to restrain, but to persuade. It was the use of this term instead of "association" which gave a fatal blow to this attempt to call such a body, although other reasons doubtless had their force also.

The term "Congregationalism" is defined for us by John Wakeman in 1661, when he showed his attachment to the Congregational denomination, by stating in his will as follows:

[10] Colonial Records of Connecticut, 1665-1677, 69, 70.

I, John Wakeman of Newhauen, being weake in body, but of sound vnderstanding and memory, in expectation of my great change doe make this my last will and testament. First, I comend my soule into the hands of my Lord Jesus Christ my redeemer, trusting to be saued by his merits and intersession, and my body to be buried at the discretion of my executors and freinds, in hope of a ioyfull resurection; testifying my thankfullnes to God for the free manifestation of his grace to me in Christ, and for the liberty and fellowship vouchsafed me with his people in his ordinances in a congregationall way, which I take to be the way of Christ, orderly walked in according to his rule, but I doe testify against absolute independency of churches, and perfection of any in light or actings, and against compulsion of conscience to concur with the church without inward satisfaction to conscience, and persecuting such as discent vpon this grownde, which I take to be an abuse of the power giuen for edification by Christ who is only lord of the conscience.[11]

The importance attributed to holding sound doctrine in religion was generally given much greater weight in the 17th century than it has been at any later period.

The case of Mrs. Eaton, tried for heresy in 1644, before the First Church of New Haven, will serve as an illustration. She was the daughter of an English bishop, and disapproved of the practice of infant baptism. When that rite was to be administered she withdrew from the church. She was also a nervous, volatile woman, and a hard person to get along with in a large family, as was the Governor's. As her pastor, John Davenport, stated the case, she sought "some argument or other against the baptism of infants." [12] Several minor charges were also formulated and introduced against her. Before the church proceeded to final sentence, her pastor by direction of the church admonished

[11] New Haven Colon. Rec., 1663–1665. 447.
[12] Foot note, Papers of the New Haven Historical Society, Vol. 5.

her to repent and acknowledge her fault. She declined to admit her error, and was promptly condemned.

Age was reverenced in Connecticut, and particularly when it was connected with church activities. In Milton, Mass., Deacon Manasseh Tucker was the last survivor of the first set of church members. He died April 9th, 1743, and as all of his generation were gathered to their fathers, the church passed a vote that they would renew convenant with God and one another, "which they did accordingly April 24th, when the members of the church male and female manifesting their consent to their fathers covenant by standing up" while the minister read it over it over" with a small variation as the change of circumstances required." [13]

In 1644, the following action was taken by the United Colonies of New England:

> Whereas the most considerable persons in these colonies came into these parts of America that they might enjoy Christ in his ordinances without disturbance, and whereas among many other precious mercies the ordinances have beene and are dispenced among us with much puritie and power. The Commissioners tooke it into their serious consideration how some due mayntenance according to God might be provided and setled both for the present and future for the encouragement of the ministers who labour therein and concluded to propound and commend it to eich generall Court, That those that are taught in the word in the severall plantations be called together, that euery man voluntaryly set downe what he is willing to allow to that end and use. And if any man refuse to pay a meete proportion, that then hee be rated by authoryty in some just and equall way. And if after this any man withhold or delay due payment, the ciuill power to be exercised as in other just debts.[14]

Rev. John Eliot appeared before the Commissioners

[13] New England Hist. and Gen. Register, Vol. 24, p. 43.
[14] Bradford, History of Plymouth Plantation, II, 370.

of the United Colonies on August 25, 1679, and made a motion referring to the re-printing of the Bible.

John Higginson was the Puritan incarnate and one of the most distinguished men in the ecclesiastical history of Connecticut. His father, Francis Higginson, was a Puritan but not an Independent, and brought him up under the influence of that sentiment. Francis Higginson was a minister of the Church of England, and though she had silenced him and come under evil counsels, she was still his church. In the preface of Mather's "Magnalia" John Higginson speaks of his "dear England," just as Mr. Cotton describes her in a letter from the Governor and Company, "late gone to New England." The letter was signed for the Governor and Company by Governor Winthrop and by Sir Richard Saltonstall, Thomas Dudley, and others, representing the influential element in the Church of England, and saying that they esteemed it an honor

> to call the Church of England from whence we rise, our dear mother, and cannot part from our native country where she specially resided without much sadness of heart and many tears in our eyes, ever acknowledging that such lot and part as we have obtained in the common salvation we have received in her bosom and sucked it from her breasts. We leave it not, therefore, as leaving that milk wherewith we were nourished there, but blessing God for the parentage and education as members of the same body, shall always rejoice in her good and unfeignedly grieve for any sorrow which shall ever betide her, and while we have breath sincerely desire and endeavor the continuance and abundance of her welfare with the enlargement of her bounds in the Kingdom of Christ Jesus.

Rev. Samuel Stone, a Hartford minister of the seventeenth century, defined Congregationalism as a speaking aristocracy, in face of a silent democracy.

More than thirty years after the Cambridge Synod of 1662, which recommended a grant of baptism to communicants or their children, Cotton Mather thought best to reaffirm this doctrine. This was his method as recorded in his diary:

1693.

Our Church, having hitherto extended a Church-Watch unto none but our Communicants, and confined Baptism unto them and their Children, I was desirous to bring the Church into a Posture more agreeable unto the Advice of our Synod, in the year, 1662.

My Method for it, was this. Having first, in a Sermon, at a Church-Meeting, declared my own Perswasion about this Matter, I permitted no public Disputation to follow upon it; but I employ'd fitt Hands, to carry an Instrument, containing my Sentiments and Purposes, unto the Brethren of the Church; who generally signed, a Desire and Address unto myself, thereto annexed that I would act accordingly. As for the few Brethren, who were disaffected unto my Proceedings, I carried it so peaceably, and obligingly, and yett resolutely towards them, that they patiently lett mee take my way; and some of them told mee, they thought I did well, to do as I did, tho' they could not yett come to see as I did.

Thus, was our Church, quietly brought unto a Point, which hitherto cost no little Difficulty. But my Charge of such as now submitted themselves unto my ecclesiastical Watch, was exceedingly increased.[15]

There are certain historic documents to which our ministers in their associations and councils sometimes refer as containing the commonly accepted doctrines of Congregationalism. They sometimes say that they accept them "for substance." To the ordinary layman they seem now rather a shadow;—the shadow of good things that are past. Time was when they spoke the convictions and language of living men. Time was

[15] Diary of Cotton Mather, Part I, 161.

when they were a legal rule to Congregationalism in Connecticut.

The Saybrook Platform, adopted by a general synod of Connecticut churches in 1708, was formally reported to the legislature of the Colony, and established by statute as the true expression of Christian belief. There are few now who would approve of all its propositions. But its confession of faith began in the truest spirit of Christianity, with a frank admission that the synod had no right to ask any man to take his beliefs on trust from them, but that the Bible was "the only sufficient and invariable rule of religion." "You ought," it continues, addressing the people of the Colony, "to account nothing ancient that will not stand by this rule, nor anything new that will."

The descendants of the good men who met at Saybrook have learned that the sanction of the legislature adds nothing to the force of divine truth. They have found occasion to question or reject many of the heads of doctrine which seemed incontestable in 1708. But they have steadfastly maintained that fundamental rule that the Bible is the only sufficient and invariable rule of religion, and that nothing that stands by this should be accounted new. Our fathers had no dread of "new" theology, however it might differ from theirs, so long as it did not differ from the Bible as wisely read.

In the *Journal intime* of the late Professor Amiel, of Geneva, he says in his keen way, "Protestantism is a combination of two factors, the authority of the scriptures, and free inquiry; as soon as one of these factors is threatened or disappears, Protestantism disappears." The people of Connecticut have, for this New World, an ancient and honorable history; but the best part of it has

been written since the 19th century came in. The days when Congregationalism was an established church, one with the State, and supported like any other State institution by general taxation, were its evil days as compared with these. It did not begin to put forth its real strength and rise to its true height till the State was beginning to cast it off.[16]

The following act of the General Court approved the Saybrook Platform:—

The reverend ministers delegates from the elders and messengers of the churches in this government, met at Saybrook, September 9th, 1708, having presented to this assembly a Confession of Faith, Heads of Agreement, and Regulations in the Administration of Church Discipline, as unanimously agreed and consented to by the elders and messengers of all the churches in this government. This assembly do declare their great approbation of such a happy agreement and do ordain that all the churches within this government that are or shall be thus united in doctrine, worship and discipline, be, and for the future shall be owned and acknowledged established by law,

Provided, always, that nothing herein shall be intended and construed to hinder or prevent any society or church that is or shall be allowed by the laws of this government, who soberly differ or dissent from the united churches hereby established, from exercising worship and discipline in their own way, according to their consciences.[17]

In 1709 the following act was passed:—

That the reverend elders, the general delegates of the several associations of elders within this Colony, now assembled in Hartford, do revise and prepare for the press the Confession of Faith, Articles of Agreement between the United Brethren in England, formerly called Presbiterian and Congregational, together with the Discipline agreed upon by the General Council of the reverend

[16] The Genius of Congregationalism, Address before the New Haven Congregational Club, Oct. 11, 1886, by S. E. Baldwin, p. 6.
[17] Colon. Rec. of Conn. 1706–1716, p. 87.

elders and churches of this colony, assembled at Saybrook, September 9th, 1708, and by their order presented to the General Assembly holden in Newhaven, the 14th of October last, and approved by the said assembly; and being revised, that the same shall be forthwith printed.[18]

In 1708 the General Court had recommended

to the ministers of the gospel in the several plantations within this government, that in their respective plantations whereunto they belong they do annually preach unto the freemen thereof, on the day of election as in the law stated, a sermon proper for direction in the choice of civil rulers, that being the proper work of the said day: and that a signification hereof be sent by the secretary to the reverend ministers, at their respective countie meetings on the last Monday in June next ensuing the present session of this Assembly.[19]

In 1709 it was enacted that if any single person

being boarders or sojourners, or any young persons whatsoever, under the government of parents or masters, within this colony, shall convene or meet together in company or companies, in the street or elsewhere, on the evening after the Sabbath, or any publick day of fast or any lecture day, and be thereof duly convicted, before any one assistant or justice of the peace, every such person shall pay a fine of five shillings to the treasury of the county wherein the offence shall be committed, or be set in the stocks not exceeding two hours for every such offence.

Provided always that this act shall not be taken or construed to hinder the meeting of such single and young persons, upon any religious occasion.[20]

The General Court was accustomed to intervene in disputes about church business if either of the parties desired it, and could grant partial relief in certain situations on condition that this, that, or the other thing

[18] Colonial Rec. of Conn. 1706–1716, p. 97–98.
[19] Colon. Records of Conn. 1706–1716, p. 61–62.
[20] Colon. Records of Conn. 1706–1716, p. 130.

should be done which would mitigate, perhaps, the straitness of the rule which was in question and lead to peace. A specimen of this kind of interference is furnished by the following statute, passed in 1746:—

An Act in addition to the law of this Colony, entituled, An Act directing how persons shall be qualified to vote in society meetings.

Whereas there are many persons in this colony who by reason of their dissenting from the way of worship and the ministry of the Presbiterian and Congregational or Consociated churches of this government, are exempted from the payment of taxes granted for the maintenance and support of the worship and ministry of the said churches:

And whereas although such exempt persons ought not to vote respecting the maintenance and support aforesaid, yet there being no express direction in the law prohibiting them from voting in these matters, some persons exempted as aforesaid have adventured to vote and act therein:

Which for the future to prevent:

Be it enacted by the Governor, Council and Representatives, in General court assembled, and by the authority of the same, that no person who is or hereafter shall be by the law of this government, freed or exempted from the payment of those taxes granted by any Town or Society for the maintenance and support of the worship and ministry aforesaid and for the building of meeting houses for such worship, on account or by reason of his dissenting from the way of worship and ministry, aforesaid, shall be allowed or admitted to act or vote in any Town or Society meetings in those acts or votes which respect or relate unto the matters aforesaid, nor in the choice of any officers necessary to be appointed for the management of or carrying on the affairs aforesaid: and the acts and votes of such Town and Society meetings, respecting the matters aforesaid, made and passed, without computing the votes of such exempt persons, shall be deemed and counted the acts and votes of such Town and Society, any law, usage or custom to the contrary in any wise notwithstanding.[21]

The Second Church in Norwich became the seat of a very warm discussion as to the merits of their minister,

[21] Revised Statutes of Conn., 1702, p. 556.

Mr. Henry Wills, and as to the effect of the Saybrook platform.

The General Assembly were asked to intervene and did so, by declaring the rights of the parties as a finality. It was a stretch of power by the General Assembly and was far from conciliating the dissension.

The precedent was important, and the text of the decision is therefore given.

> Upon the memorial of sundry inhabitants of the second society in Norwich, representing the broken and unsettled circumstances of said society and the unhappy divisions subsisting therein; also shewing that the said society, at their meeting on the 13th day of instant October, declared they, under their unhappy circumstances did not choose to hold Mr. Henry Wills as their Minister, and that at the same time also they declared that they as a society did differ or dissent from Saybrook Platform of Church Discipline, as the church in said society had done; and further representing their fears that, in consequence of said votes and declarations, the said society would soon attempt to shut the said Mr. Wills out of the pulpit there, by which means they apprehend great disorders would necessarily follow; and thereupon praying the interposition of this Court: And whereas, although the state and circumstances of said society and the reasons for giving a judgement respecting the same cannot fully be known and understood without the contending parties be heard on the matters of difference, yet, lest greater confusion and disorder should happen before a full hearing and determination can be had: It is resolved by this Assembly, that the said society be, and they are hereby, forbid to offer to dispossess him, but are hereby ordered to permit him to abide in and perform his function there till the rising of this Assembly in May next, unless the said Mr. Wills be orderly dismissed from his service there before that time. And all persons are directed to conform to this order, on penalty of incurring the displeasure of this Assembly.[22]

Cotton Mather, writing in 1698, has much to say of the general decadence in morals.

[22] Colonial Records of Connecticut, IX. p. 337.

The following quotation will serve to show how he regarded the behavior of many in those days:

Drinking houses have been a most undoing stumbling-block of iniquity, in the midst of us. The judgments of God brought us into a time, when unsufferable villainies were perpetrated every where under the pretence of the excise.

Those times are now over indeed. But our Indian wars are not over yet: We have too far degenerated into Indian vices. The vices of the Indians are these: They are very lying wretches, and they are very lazy wretches: and they are out of measure indulgent unto their children; there is no family government among them. We have shamefully Indianized in all those abominable things. Now the judgments of God have imploy'd Indian hatchets to wound us, no doubt, for these our Indian vices.[23]

In 1707 Cotton Mather wrote to Stephen Sewall a letter containing this passage:

If things continue in the present Administration, there will shortly be, not so much as a shadow of justice left in ye country. Bribery, a crime capital among the Pagans, is already a peccadillo among us. All officers are learning it. And, if I should say, judges will find ye way to it, some will say, there neds not the future tense in the case; but it may qualify them, for the clergy to recommend them to be, not examples, but ———. Everything is betrayed: and that we on the top of our house, may complete all, our very religion, with all the churches, is at last betrayed,— ye Treachery carried on with lies, and fallacious representations, and finished by the rash hands of our clergy.

Tho there be few men to be trusted; and you see, your best Neighbours, *will lee a little;* yett you see how much I can trust *you,* in the freedom I use with you, (Mal. 3. 16).[24]

Intemperance spread as the power of the clergy over public morals declined.

Cotton Mather makes this entry in his diary, in 1710:

Shall I not do well, to write a Letter unto one or two of the principal Ministers in Connecticut-Colony; concerning the fear-

[23] Magnalia, 2, 344.
[24] New England Hist. and Gen. Register, Vol. 24. p. 109.

ful Circumstances, into which the Love of Rum, has brought several, even of their principal Ministers, and by Consequence very many of the miserable People? And awaken them, to dispense their laweful Admonitions? The Consequences of the affected Bottel, in that Colony, as well as in ours, are beyond all Imagination.[25]

The prospects of outgrowing the differences of Christian churches were well set forth by Cotton Mather, in 1715, in a letter to a Scotch Professor of Divinity, in which he says that

I join with you in expecting, that the Kingdome of God will quickly be seen, in some Appearances and Advances of it, beyond what have been in the former Ages. But very much of my Expectation is, that God will raise up some Instruments, who from the Mines of the Sacred Scriptures, will dig and run the Maxims of the everlasting Gospel; the glorious Maxims, wherein all the Children of God really are united, and whereinto all that come are to be esteemed and embraced as the Children of God. The children of God and of His Kingdome, under various professions will arrive to a declared and explicit union on these Maxims; and lesser points will be depressed into their due subordination. Disputations on these Lesser Points may be continued; but managed with that mutual Justice, and Candor, and meekness, which becomes the Children of God. The Brethren thus becoming sensible that they are so, will associate for the Kingdome of God, in such methods, that the Things to be consumed by the Stone cutt out of the mountain shall be all broke to peeces before them. Glory to God in the Highest, with peace on Earth from Good-will among men, will be the grand Characters and Intentions of the Kingdome; and the Tokens and Effects of the divine Presence among this people of our Immanuel, will be wonderful, wonderful! Joels prophecy is also to receive its full Accomplishment.[26]

In 1741 a strong stand was made in different parts of the State in support of the New Light doctrine. This was the position taken by the greater part of the young

[25] Massachusetts Historical Collections, Seventh Series, Vol. VIII, p. 51.
[26] Massachusetts Historical Collections, Seventh Series, Vol. VIII, p. 329.

people. They wanted a free pulpit so that they might be members of a parish whose faith and doctrine were not directly challenged. It was the day of the great orator George Whitfield, who led the New Light party.

The dissentient members largely floated off to join Whitfield, and the State Consociation generally pronounced against him. This body reported as follows:

As is natural to Expect in this corrupt and Dark St(ate of the) world, there are diverse (human weaknesses, imperfections and impru)dences, which have attended this great and (work, both in some) of the Instruments, who have appeared most Zealous to pr(omote it) and in Some, who we hope are wrought upon Sincerely to beli(eve in) the lord Jesus Christ, as well as in those under awakening and concern and there are also diverse Stratigems and Devices of Satan & Endeavours of his to deceive unwary Souls and to Impose on them and thereby throw a Blemish and Reproch on the work of God.

There ought to be great Care taken by People in the Choice of Ministers that they get men of Learning, Wisdom, and of Piety, and they ought to attend only on the Ministry of Such as are approv'd or allow'd by the Constitution of the Colony.

Ministers and Associations ought to be Carefull to licence Recommend or put into the ministry none but such as are men of learning wisdom and Prudence and so far as they can Discern men of true Piety and Experimental acquaintance with Jesus Christ.

When Persons of this Character (according to a Judgment of Charity) are introduced into the Ministry by the Regular Choice of the People and Regular Ordination by the h(ands of) the Pr(esby)ter as hath been Practised in the Chu(rches of New England, they are lawful ministers of Christ e)ven if after all they Should Really (be) Uncon(verted) men

If any person Should apprehend this was the State of any Minister or other Public Person, tis not lawfull either Publickly to Declare Such a Judgment or privately to Insinuate the Same or Peremptorily to pronounce this concerning any one of them, nor undertake by open Censures and Seperations to Remove them and Reform the Church.

That Heresie, False Doctrine grossly Such Scandalous Sin and

the Unjust Imposition of Such Terms of Communion as Christ hath not made are the only just grounds of open Seperation, and that not till proper Steps are taken in order to A Regular Conviction

And in case of Seperation or Seperations not so Qualified We advise the Several and Respective Consociations, within whose Circuit they may happen to take Cognizance of the Same and proceed therein according to the Constitution. . . ."

We approve of the Established Constitution of this Government both as to Doctrine and Discipline and purpose to abide by it and act in Conformity to it

That for a Minister to Enter into another Ministers Parish and Preach or Administer the Seals of the Covenant without the Consent of or in Opposition to the Setled Minister of y^e^ parish is disorderly

Not with Standing if a considerable Number of People in a Parish are desireous to hear another Minister Preach pro(vided) the (Same) be orthodox and Sound in the Faith & not notoriously (faulty in censuring other) Persons or Guilty of any other Scandle we think it ordinarily advisa(ble for the minister of the parish) to Gratifie them by giving his Consent upon the(ir s)uitable (appli)cation to him for it unless Neighbouring Ministers Should advis(e) him to the Contrary.

That no Perticular Association or Consociation Shall Intermeddle or take upon them to act out of their own limits or precincts in the Affairs of another Association or Consociation without their Consent as to the Examination of Candidates or any other matter tending to disorder and Confusion.[27]

At bottom this division reflected the views of church order held by those speaking before an "Association," the latter being the place where the elders of the church did most of the talking and voting.

* * * * *

Independency was Oliver Cromwell's standard of polity. Presbyterianism was the form of polity adhered to by Lord Say and Seal. Presbyterianism meant church government by other churches as well as by one's

[27] Connecticut Historical Society Collections, Vol. XI, 6–8.

own. Sometimes the differences of ecclesiastical character came out, in inter-church dealings, and sometimes these interferences came pretty close to persecution, though they did not in fact justify the use of that word of description.

Rev. Benjamin Pomeroy, pastor of the church of Hebron, was one of the Congregational clergy who protested against these laws. He publicly declared in 1743 that

> the late law of this Colony, made concerning ecclesiastical affairs, was a great foundation to encourage persecution and to encourage wicked men to break their covenants, and that if wicked men did not take the advantage of it, it was no thanks to the Court; and that . . . the law that was made to stop ministers from going about to preach in other towns was made without reason and contrary to the word of God

For this he was prosecuted by the King's Attorney, who also filed another indictment, in 1744, alleging that Mr. Pomeroy,

> on the publick fast day in this Colony, in April last, he, said Pumroy, did publickly declare and say, that the great men had fallen in and joyned with those that are on the devil's side and enemies to the kingdom of Christ, and raised such persecution in the land that if there be a faithful minister of the Lord Jesus he must lose his estate, and if there be but a faithful man in civil authority he must lose his honor and usefulness; and further, in the after part of said day, said, there is no Colony so privileged as Connecticut was, and now there is no Colony so bad as Connecticut for persecuting laws, I have never heard nor read of such persecuting laws as is in Connecticut, nay there is no such thing among the heathen, and the very heathen are a shame to them, or words to that effect.

He was convicted by the General Assembly on both

charges, and required to give a bond for £50, conditioned that

if he, the said Benjamin Pumroy, do at all times hereafter, from this day until the sessions of this Assembly in May next, both in word and deed, use, bear and behave himself well, faithfully and peaceably towards all his Majesty's liege subjects, and especially towards the Legislature and all the civil authority of this Colony, in such wise as that by any act, speech or thing by the said Benjamin Pumroy committed, done, reported, spoken or published, they, the said Legislature or any of the civil authority of said Colony, be not at any time hereafter in any manner injured, troubled, villified or defamed, or in their name, office, honour or authority, anyway impeached, slandered or taken away, then the said bond to become void, otherwise to be in force and virtue.[28]

Mr. Pomeroy was an original trustee of Dartmouth College.

The New Light party had a deep influence on the feelings and convictions of the surviving Indians. They listened to Mr. Whitfield and were impressed by his eloquence. It led them to apply to the General Court, in 1742, for a colony grant for educational and religious purposes.

Groton, May 6, 1742,

To the honourable General Assembly to be held at Hartford the Second thursday of May, next; We the Subscribers beg leave to Inform Your honours,

That we dwell Near to, and are well Acquainted with the Circumstances of the Pequod Indians living in Groton, who have (Not withstanding all Attempts to bring them to the knowledge of the Gospel of Jesus Christ) Remained in heathenish Darkness, Debauch'd in life and manners, and utterly Averse to all manner of learning, till about Eight months past, they have been Generally much concern'd about their Souls Deeply convicted of the Dreadful Sinfulness of their hearts, and a considerable Number of them, we trust, have been Savingly United to Jesus Christ.

[28] Colonial Records of Connecticut, 1744–1750, 28, 29.

There are anout 50 who constantly attend the preaching of the Word in whom there Appears an Uncommon concern about theire souls, a teachable Spirit and temper, and a great Aptness to Receive light and knowledge—And they are Generally Reformed as to their beloved Sin of Drunkeness, and behave with an unusual Sobriety and Decency.

Above thirty of them are Much Inclined to Learn to Read, and take uncommon pains to Attain knowledge, but, their circumstances being So very Miserable that they are not (without help) able to Get learning; we would humbly Recommend it to Your Honours that Some care for this End may be taken of the Miserable Remains of the Pequod Savages; that the blessing of their Souls ready to perish, may come Upon You.[29]

One of the churches accepting the "New Lights" faith and order was the Branford church. Its pastor, Rev. Mr. Robbins was cited before the consociation.

The articles of complaint included the following:

1. That he, the said Mr. Robbins, has in public taken it upon him to determine the state of infants, dying in infancy, declaring that they were as odious in the sight of God, as snakes and vipers were to us; and left it wholly in the dark whether any were saved or not.

2. That he had assumed to himself the prerogative of God, the righteous judge, in judging the condition of the dead, in a funeral sermon, saying that they were in hell, to the great grief of mourning friends and others.

3. That in his public preaching he had been guilty of speaking evil of dignities; declaring, that the leaders or rulers of the people were opposers of the glorious work of God in the land; and comparing our civil authority to and with Darius, who cast Daniel in the lion's den.

4. In judging and declaring those persons carnal and unconverted, that did not approve of the late religious stir that has been made in the land; and in the improvement of his sermon dividing them, and calling one part, that is, the approvers, the children of God, and branding the other part, with the name and character of opposers.

[29] Connecticut Historical Society Collections, Vol. XI, 38, 39.

5. The said Mr. Robbins has also publicly and censoriously judged those that did not fall in with and impute the religious stir in the land (which he calls a glorious work of God) to be the work of God's spirit, declaring such were guilty of the unpardonable sin.

6. He has publicly asserted, and taught and laid down, that a man might be sincere in religion, and a strict observer of the sabbath, and yet be a hypocrite.

7. Said Mr. Robbins has publicly reflected upon and reviled the standing ministers of this land, calling them Arminians, and comparing them with and to false prophets, putting himself in the place of Micajah.

With respect to his Antinomian doctrines, they complained,

1. That he has publicly taught us, that there is no promise in all the bible that belongs to sinners: thereby frustrating the covenant of God's free grace, and the condescension and compassion of God, and his Son, our Saviour, to poor, lost and perishing sinners.

2. That there is no direction in all the bible how men should come to Christ, nor could he direct any persons how they should come to him: thereby rendering the study and search of the holy scriptures, at least an unsafe and insufficient way of finding Christ; and the preaching thereof useless.

3. He has publicly taught that it is as easy for persons to know when they are converted, as it is to know noon day light from midnight darkness; making the only sure evidence of conversion to consist in inward feeling, and a sense of their love to God.

4. He has declared in public, that believers never doubt of their interest in Christ after conversion; and if they do, it is the sign of an hypocrite; rendering sanctification no evidence of conversion or justification, and that believers are never in the dark.

5. He has also taught that God could easier convert the seat a man sits on, than convert a moral man; and that the most vicious or vile person stands as fair for conviction and conversion as the strictest moral man: thereby making holiness and obedience to the moral law, no way necessary to be found in men for their salvation.

6. Mr. Robbins has taught that there are some sinners that Christ never died for, nor did he come to save them; thereby perverting the great doctrines of redemption in the gospel, and rendering all endeavors in men to obtain salvation, useless; Arminianism, and blending the covenant of works and covenant of grace together.

With relation to his enthusiasm, which they complained of as exceedingly grievous to them, these articles were charged against him:

1. That bitter and censorious spirit discovered by the said Mr. Robbins, against all, even civil magistrates, as well as ministers, who do not think the commotions in the land which bear the name of religion, a glorious work of God, and the effect of the agency of the Holy Spirit, declaring all such to be guilty of the unpardonable sin.

2. In that strange heat of spirit, under which the said Mr. Robbins has acted; discovered in a perpetual uneasiness, or craving to be preaching; going into those many unscriptural night meetings, and frequent public preaching under a religious pretence; consorting with and improving those to preach and carry on in public, as well as in those private meetings, that have been most forward and famous for their enthusiasm in the present day.

3. In the spirit of pride and conceitedness, and expectation to be believed only upon positive and bold assertion, discovered by said Robbins; among other instances thereof, by publicly declaring, in a sermon, that the standing ministers in this land were Arminians, and calling them false prophets, while he put himself in the place of Micajah before Ahab, in 1 Kings, xxii. pronouncing these words upon it, That if the body of the people were in the way to eternal life, the Lord had not spoken by him.

4. Mr. Robbins has publicly taught, that unconverted persons have no right to praise God.[30]

A religious sect, which still exists, was founded about the year 1730 by one John Rogers of New London, to

[30] Barber, Connecticut Historical Collections, 192, 193.

which his name came to be appropriately given. This sect, called "the Rogerenes," were a sort of Quakers.

Rogers . . . was a man of unbounded ambition, and wished to be something more than common men. One Case, and one Banks, two lewd men, called singing Quakers, coming through the colony singing and dancing, accompanied with a number of women to assist them in their musical exercises; and especially to proclaim how their lips dropped with myrrh and honey, fell in company with John, and at once made a convert of him to their religion. He, in a high degree imbibed their spirit, and ever retained it. Notwithstanding, it was not long after, before he commenced a seventh day Baptist. After maintaining the opinion of this sect for a short time, he returned again to Quakerism. To gratify his pride, and that he might appear as the head of a peculiar sect, he differed in several points from the Quakers. Particularly he maintained that there were three ordinances of religious use, baptism, the Lord's supper, and imposition of hands. To make himself more eminent, as the head of a new sect, he commenced preacher of his peculiar scheme, and without any kind of ordination, administered baptism to his followers. The madness, immodesty, and tumultuous conduct of Rogers and those who followed him, at this day, is hardly conceivable. It seemed to be their study and delight to violate the sabbath, insult magistrates and ministers, and to trample on all law and authority, human and divine. They would come, on the Lord's day, into the most public assemblies nearly or quite naked, and in the time of public worship, behave in a wild and tumultuous manner, crying out, and charging the most venerable ministers with lies and false doctrine. They would labor upon the Lord's day, drive carts by places of public worship, and from town to town, apparently on purpose to disturb Christians and Christian assemblies. They seemed to take pains to violate the laws in the presence of officers, that they might be complained of, and have an opportunity to insult the laws, the courts, and all civil authority.

A particular instance of their conduct on a certain occasion, when Rogers was indicted for a high misdemeanor, may serve as a specimen of their spirit and conduct in general. The crime for which he was indicted, and the manner of his own and his followers' conduct, will appear from the following extract from Pratt's Historical Account of Quakerism.

"It was his manner to rush into the assembly on the Lord's day,

in the time of God's worship, in a very boisterous way, and to charge the minister with lies and false doctrine; and to scream, shout, stamp, &c. by which he offered insufferable molestations to the worship and people of God. And this was his manner in the court also, when he pleased, or had a mind to make himself sport, and he would laugh at it when he had done until his sides shook.

"I saw him once brought to court for such a disturbance, committed on the sabbath. He had contrived the matter so as to be just without the door when he was called to answer; upon which he rushed into court with a prodigious noise; his features and gestures expressed more fury that I ever saw in a distracted person of any sort, and I soberly think, that if a legion of devils had pushed him in headlong, his entrance had not been more horrid and ghastly, nor have seemed more preturnatural.

"When he came to the bar, he demanded of the court what their business was with him? The indictment was ordered to be read. To this he pleaded not guilty, after a new mode; for as the clerk read, sometimes at the end of a sentence, and sometimes at the beginning, he would cry out, That's a cursed lie; and anon, That's a devilish lie; till at length a number of his followers, of both sexes, tuned their pipes, and screamed, roared, shouted and stamped to that degree of noise, that it was impossible to hear the clerk read."

He professed to be a most holy man, guided in all his conversation by the Holy Ghost, so that for the course of twenty years, he had lived without the commission of one sin. Yet he was almost constantly committing such gross offences. He was divorced from an amiable wife for fornication and supposed beastiality. The latter he often confessed out of court. When he had occasion, he took to his bed a maid whom he has purchased, and after she had borne him two children, he put her away. He suffered a long imprisonment, upon a strong suspicion that he was an accomplice in burning the meeting-house at New London. He once sat upon the gallows upon a conviction of blasphemy. For these and the like instances, he and his followers suffered the penalties of the law; but for his religion, neither he nor his followers suffered any thing, any further that it led them to such misdemeanour as are punishable by the laws of all Christian nations.[31]

[31] Barber, Connecticut Historical Collections, 283, 284; Trumbull's History of Connecticut, Vol. 2.

In 1769 there was a question of dispute whether Uncas accepted Christianity as the true form of religion. Dwight's Travels tells us how this should be decided.

Uncas appears at the first very unfriendly to the Christian religion. The commissioners of the colonies endeavored to reclaim him. In 1672, they wrote a letter to him "to incurrage him to attend on the ministry." Whatever effect this letter may have had on his outward deportment it seems not to have reached his heart. In 1674, the Rev. Mr. Fitch, of Norwich, mentioned him as manifesting some respect to the Christian ministry, but with an entire distrust of his sincerity. About two years afterward, however, a providential event made such an impression on the mind of this pagan chieftain, as gave this pious minister some hopes of his real conversion to Christianity. "In the summer of 1676, there was a great drought in New England, which was extremely severe at Mohegan, and in the neighboring country. In August the corn dried up; the fruit and leaves fell off as in Autumn: and some trees appeared to be dead. The Indians came from Mohegan to Norwich, and lamented that they had not rain; and that their powows could get none in their way of worship; desired Mr. Fitch that he would seek God for rain. He appointed a Fast day for that purpose. The day proved clear; but at sunset, at the close of the service some clouds arose. The next day was cloudy. Uncas went to the house of Mr. Fitch, with many Indians, and lamented the great want of rain. If God shall send you rain, said Mr. Fitch, will you not attribute it to your powows? He answered, no; for we have done our utmost; but all in vain. If you will declare it before all these Indians, replied the minister, you shall see what God will do for us; remarking at the same time, their repeated and unfailing reception of rain, in answer to fasting and prayer. Uncas then "made a great speech" to the Indians, confessing that if God should then send rain, it could not be ascribed to their powowing, but must be acknowledged to be an answer to the Englishman's prayer. On that very day, the clouds became more extended; and the day following, there was such a copious rain, that their river rose more than two feet in height." Whether Uncas died in the faith of Christianity, cannot now be ascertained. It is agreeable however to find him acknowledging the God who is above, and paying homage to the religion of his son. "The same year, (1676,)

Oneco, a son of Uncas, commanded a party of Mohegans in an expedition with Captains Dennison and Avery against the Narragansetts." [32]

In 1678 the Commissioners of the United Colonies took the following action:

Whereas in the year 1660, the Commissioners, for the encouragement of the Indians to put their children apprentices to the English, ordered that such as should do so should have one coat per annum during the said term,—the Commissioners do judge meet to revise the said order, provided that they be put apprentices not for less term than until they come to twenty-one years of age, and be placed, with the approbation of two of the Commissioners, with godly masters, such as will engage to teach them to read well, and bring them in Christian nurture; and that once in each year, they make their appearance before the Commissioners of some Colony and give an account thereof; upon whose certificate that these conditions are performed, then the said coats shall be paid out of the Corporation stock; otherwise the said apprentices are to be taken from their masters, and the request of the parents, and placed where they may be nurtured and educated as here provided. . . .

The Commissioners of the United Colonies do agree to commend to their several General Courts, that the third Thursday in November next may by all their people jointly (be) set apart and kept a solemn day of Fasting and Prayer, to the end that they may humble themselves before the Lord and seek his face;—

1st. That we may be suitably affected with and humbled under all the many tokens of his great anger kindled against us.

2dly. Freely to pardon all our manifold provocations, be reconciled unto us, and heal our land.

3dly. That as he was present with that blessed generation of his precious ones, the leaders of his people into and in this wilderness, and did hear them when (in their distress) they cried unto him, so he will still please to dwell in the midst of, and not forsake us.

4thly. That he will not take away his holy Gospel; and, if it be his good will, yet to continue our liberties, civil and ecclesiastical, to us and our children after us.

[32] Barber, Connecticut Historical Collections, 341, 342.

5thly. That a spirit of conversion may be poured out upon our children, that they may give up themselves and their seed after them to be the Lord's; willingly subjecting themselves to all his holy rules and government in his house.

Ult. That in our now low estate, in very many respects obvious to all serious spirits whose eyes are open, (so to smile upon us that) his tender mercies may speedily prevent us.[33]

In 1746 the following statute was passed:

Whereas the society of North Stratford by their memorial have represented to this Assembly their unhappy and divided circumstances, and that frequent applications have been made to the reverend association of the eastern district of the county of Fairfield, for their advice and directions in supplying the pulpit in said society with a gospel minister, and, that their endeavours have been attended with no success; and thereupon praying to this Assembly for assistance and direction: and whereas this Assembly on consideration of the matters aforesaid do apprehend the said difficulties have arisen rather from some different sentiments and misapprehensions which the parties concerned have had and conceived in those matters than any intention or design in any persons concerned therein to embarass the attempts of said Society, and hoping that if mild and moderate measures be pursued the difficulties subsisting in said society may in a good measure subside; and this Assembly having a tender regard to the welfare of said society, and greatly desirous that a good understanding may be promoted and maintained between the reverend association aforesaid and that people, as well as among the members of said Society; and being at all times concerned to preserve and support our ecclesiastical constitution, do recommend to the said reverend association, as an expedient on their part in order to remove such difficulties as are subsisting in said society, to request the assistance and advice of such of their reverend brethren of some other association as they shall judge will be most serviceable in promoting the settlement of that unsettled people, when the said society shall apply for advice; and do also recommend it to said society to endeavour to lay aside all animosities and uncharitable and party spirits, and to unitedly pursue proper and regular methods for a peaceable settlement of a gospel minister among

[33] Colonial Records of Connecticut, 1678–1689, 497, 498.

them; and, as an expedient to accomplish said end, do appoint Ebenezer Silliman, Andrew Burr and Thadeus Burr, Esq[rs], or any two of them, a committee to repair to said society, and by all proper ways and means to endeavour to restore peace, good order and unanimity among them, in order for their comfortable settlement of a gospel minister there; which committee ar directed to attend and assist in said affair on the invitation and at the cost of the memorialists.[34]

In 1756 an Act was passed which showed that the tone of public morals had greatly declined, at the touch of war.

An Act to prevent Bribery and Corruption in the Election of Members of the General Assembly.

Whereas bribery and corruption is destructive of civil communities and of dangerous tendency in any state,

Be it enacted by the Governor, Council and Representatives, in General Court assembled, and by the authority of the same, That no person or persons do or shall give, offer, accept or receive, any sum or sums, or any other matter or thing by way of gift, fee or reward, for giving or refusing to give any vote or suffrage for electing any member of the General Assembly of this Colony, nor promise, procure or any ways confer any gratuity, reward or preferment, for or account of any vote or suffrage given or to be given in any such election; and every person so giving, offering, accepting or receiving as aforesaid, shall in every such case forfeit and pay the sum of five pounds, one half to him or them that shall sue for and prosecute the same to effect and the other half to the treasury of the town where the offence is committed.

And be it further enacted by the authority aforesaid, That every person who shall be elected by means of such evil and illegal practice as aforesaid, shall be and hereby is declared to be uncapable to serve as a member in such Assembly, unless such person shall be able to satisfy said Assembly that the same was done altogether without his privity, and that he was not directly or indirectly concern'd therein.

And be it further enacted by the authority aforesaid, That it shall be the duty of every constable and grandjury-man to enquire after and make presentment of all breaches of this act, and that

[34] Colonial Records of Connecticut, 1744–1750, 203, 204.

the constables in the several towns in this Colony shall at the opening of the freeman's meeting publicly read this act, or cause the same to be read in said meeting.[35]

President Stiles, in 1759, predicted ill effects from the French and Indian wars, on public morals. The following letter from him has been preserved.

* * * * *

I imagine the American Morals & Religion were never in so much danger as from our concern with the Europeans in the present War. They put on indeed in their public Conduct the Mask of public Virtue—and the Officers endeavor to restrain the vices of the private Soldiery while on duty. But I take it the Religion of the Army is Infidelity & Gratification of the appetites. . . . They propagate in a genteel & insensible Manner the most corrupting and debauching Principles of Behavior. It is doubted by many Officers if in fact the Soul survives the Body —but if it does, they ridicule the notion of moral accountableness, Rewards and Punishments in another life. . . . I look upon it that our Officers are in danger of being corrupted with vicious principles, and many of them I doubt not will in the End of the War come home minute philosophers initiated in the polite Mysteries and vitiated morals of Deism. And this will have an unhappy Effect on a sudden to spread Deism or at least Skepticism thro' these Colonies. And I make no doubt, instead of the Controversies of Orthodoxy and Heresy, we shall soon be called to the defence of the Gospel itself. . . . The Bellamys &c. of New England will stand no chance with the corruptions of Deism, which, I take it are spreading apace in this Country.[36]

The relations of the New England Colonies to the Society for the Propagation of Religion in foreign parts were somewhat strained.

The following extract from a letter of Cotton Mather to a Scotch minister, in 1715, indicates the feeling at Boston on the subject:

[35] Colonial Records of Connecticut, 1751–1757, 496.
[36] Purcell, Connecticut In Transition, 6, 7.

We are not without some Inconvenience, from the Missionaries of the Church of England sometimes arriving among us. It seems to us a little surprizing, that the Society for propagation in foreign parts, should leave so many English plantations in the most paganizing Circumstances, and at the same time, chuse to send their Missionaries where they can only serve as Tools of Contention for perhaps about a dozen wretched and sorry people, who merely for mischief declare themselves for the Ch: of E. in Towns, where there are faithful and painful pastors, and flourishing Churches, wherein the meanest Christians understand Religion and practice it, better than the Ministers whom they send over to us. But by the marvellous Providence of God it comes to pass, that the Ministers whom they send over, have been such ignorant, vicious debauched Creatures that their Hearers have soon grown weary of them, and the Ch: of E. has been in a Countrey of Religious People, rendred, (and how should it be otherwise?) to the Last Degree Contemptible. No remonstrances have hitherto signified any thing to cure this Infatuation upon the Society; But even this week another Blade of the Mission keeping up the Character of his predecessors, is arrived, for a litigious Vicinity in one of our Towns, where the parson who went before him, so disaffected his own crue of pretenders for the Ch. of E. that they generally deserted him. God will one day putt an End unto these things.[37]

Complaint was made in 1751 to Governor Wolcott by the Society for the Propagation of the Gospel in Foreign Parts, that the Connecticut missionaries were not given the full benefit of the toleration statutes of the Colony in some particulars. This Society, which was colloquially called the Venerable Society, wrote from London that

they will do what they can to protect all the Members of our Chh from oppression both in Connecticut & Every where else: Tho to say y^e^ truth this Violent Oppressive Spirit shews it self at present only there, And the Several Complaints & papers relating to it are now under Consideration In order to put the most Effectual Stop to it. &c

[37] Massachusetts Historical Collections, Seventh Series, Vol. VIII, pp. 327, 328.

Since w^c y^e Rev^d M^r Gibbs has receivd (in Answer to his Complains of the like nature) an Assurance of the Societys Surprize at the Conduct of this Government towards their Missionaries and the people who Submit themselves unto their Care, &c and Order him to receive to his Pastoral Care any who are dispos'd to submit themselves unto it even in Cornwall 40 Miles dist^t & that they are resplv'd to protect both him & them from further Abuses & Indignities.

That y^e Gathering Storm might be Averted, or at least not prejudice the Privileges of this Government in which I live & its Welfare heartily desire: and therefore would entreat your Hon^r to prope to the Assembly y^t the Statute made in favour of the Professors of y^e Chh of England, in Words might be as universal as in Reason & Sense

Notwithstanding this ancient maxim among Civilians Ubi lex est Specialis, et Ratio generalis generaliter est accipienda yet this Statute has been made use of to the great expence & trouble of the Ministers of y^e Chh of England who are by profession Messengers of Peace, & to whom nothing is more troublesome than these vexatious Suits. And as y^e taxes of 4 or 5 of the Professors of the Chh of England under my Charge are in y^e hands of y^e Collectors y^t I might be put to as little trouble as possible in Recovering the Same.[38]

Governor Wolcott replied as follows, writing to the Church of England itinerant minister, Rev. Ebenezer Punderson, who had made the complaint:

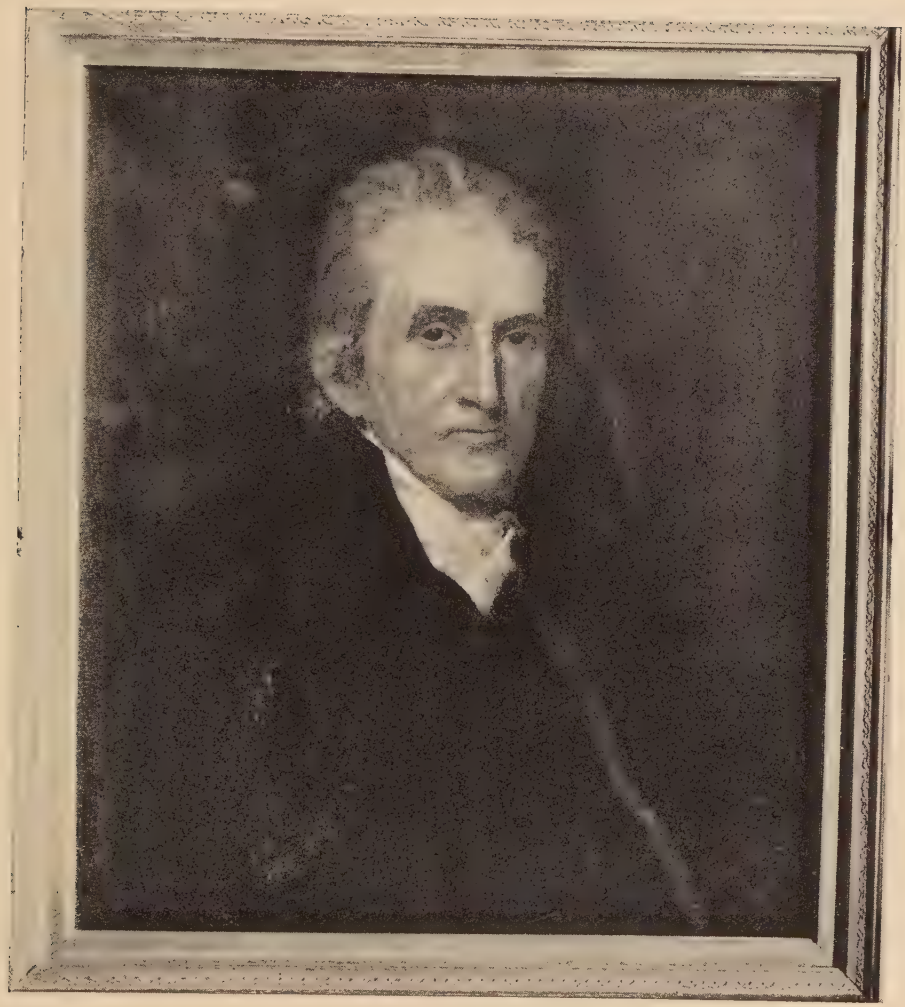
Windsor Nov^r 1^st 1751

Rev^d S^r

I have Laid yours of the 12^th of Oct^r past before the Councill who (Altho Desirous that you should have the benefitt of the statute you refer to) Cant see but that the Words in the Statute Express the sence as fully as possible

By the Clause you recite out of the Letter from the Venerable society it Appears that the society is Informed that this Government is under a violent opresive spirit Towards the Profesers of the Chh of England I Coud be glad to know who the Informer is and What the Complaint Which as far as I Can Learn is an Abuse to this Govern^t and the society it self

[38] Connecticut Historical Society Collections, XVI, 108.



JAMES HILLHOUSE, 1754–1832

United States Senator, 1796–1810. First citizen of New Haven of his time. From original painting by John Vanderlyn in Possession of James Hillhouse, Esq., of New Haven.

I am glad to find you Desireous to Avert the Threatening storm and to Improve this disposition in you lett me observe to you that the Venerable society are Great and Good men Who have Nothing More at heart than to promote vitall and practical Religion Among His Majesties subjects and When they once understand this Govern^{t} are in the same sentiments and pursuing the same thing we shall fear No storm from that quarter I therefore advise that you send them the Laws of Connecticutt made for the suport and furtherance of Religion and this statute with the rest I doubt not but that when they find that we have Divided the Colony into Religious societys of such limits the people Conveniently Can and do Attend the public worship. And that the Profesors of the Chh of England as well as others are Enjoind to attend under penaltys in the Laws provided. The Venerable society we see we have taken Care to promote and suport Religion among us. You S^{r} are sensible that pluralitys and Non Residencys are Complained off by the Bishops as banefull to Religion, and that your Mission is at Large from Guilford to Union is I supose at Least Eighty miles. the society will also see that the professors of the Chh of England are protected from Disturbance as much as others and that the ministers thereof are Intituled to the Taxes of all such professors that live so Near the place of publick Worship that they Conveniently Can and do attend it which extends as far or further than the limitts of our Largest societys: These things being shewn to the Venerable society will Convince them that we have taken as Greate or Greater Care for the Ministers of the Chh as for any other and thereupon that a Complaint ag^{t} us that we are opresive to them is Clamorous and Without reason and so the Threatening storm will be Averted as you desire.

I shall be always ready to give you all reasonable favor and am

Your very Humble serv^{t}
R. Wolcott[39]

Mr. Punderson sent the following reply:

North Groton 23 Nov^{r} 1751

Hon^{d} S^{r}

Yesterday I receiv'd your favour of Nov^{r} 1st. and am rejoyc'd to hear that your Hon^{r} and the Councill are desirous that I

[39] Connecticut Historical Society Collections, XVI, 116.

should have the Benefit of the Statute refer'd to i. e. that made at the Desire, and in favour of the Professors of the Chh of England.

That Clause in the Societys Letter w^e^ your Hon^r^ supposes grounded upon a Male-Representation of the Spt, & temper, of the Gov^t^ is founded only upon Matters of fact, and truly related to them by me, in a Letter dated June 25th 1750 A paragraph of w^e^ is in these words & from w^e^ taken. "In Cohabit the N:Society of Guilford they have been distraining from, and Imprisoning Some of the Professors of the Chh of England; being Encouraged by my ill Success in Endeavouring to Protect, and recover a tax taken from one Mathew Paul A professor of the Chh of England at the Union who had upwards of 12f of our money distrain'd from him for their Ministerial Charges. I sued the Collec^r^ upon a Stat: of y^e^ Gov^t^ page 340 which has long been conceiv'd to exempt the Professors of the Chh of England from paying taxes to their Presbyterian Meeting-Houses & Ministers; But after a Long & Tedious process Judgment was given against me: the writ having been twice Abated, only on Account of the Distance w^e^ is 43 Miles from y^e^ Chh in Groton: 37 from y^t^ in Norwich: and 10 from the place of our Worshiping in Mansfield: where he attended at least 2ce a year. these facts will appear by the Inclosed papers." which were the Summons, Evidences, & Judg^mt^ and I think the Statute itself. there is no Occasion of my Complyance with y^r^ Hon^rs^ Advice, of sending to the Society the Ecclesiastical Laws of this Gover^t^ w^e^ they have, and I presume understand the Geography, and Religious State of the New Eng^d^ as well as almost any Person in the Gov^t^ (meaning no Reflection;) Having had an Ample Account, & in y^e^ most Advantageous Light made to them, by y^e^ Hampshire Ministers, About 18 years ago.

I am Rejoycd that your Hon^r^ has so good an oppinion of that Venerable Society of the greatest and best of Men; who spare no cost nor pains to promote True Religion, & Virtue, & will not Suffer their Missionaryes and the Professors of the Chh to be any longer worse dealt by than Quakers or Baptists.

With Submission to your Hon^r^, I cannot conceive how the Non Residency justly complaind of By the Bishops can possibly be applicable to my Case: who am an Itinerant Missionary in New England. Resident is oppos'd to Non Resident, not to Itinerant for there may be (as I am) A Resident Itinerant, As in this Government we have Resident Itinerant Judges i.e. those

of the Superior Court. Resident in the Gov^{t} and Itin^{t} as oblig'd to Journey thro the various Counties.

I shall Trespass no longer upon your Hon^{s} Patience, Save only to Assure your Hon^{r}; that as on the one hand, I shall always guard against Clamorousness, and misrepresentations: so I Shall be equally faithfull, to transmit to that Venerable board a faithfull Account; of the Difficulties I meet with in the execution of that Sacred Office conferd upon me: and the Societies most possitive Instructions, And am

With Great Respect your Hon^{s}
most Humble Serv^{t}
Ebenez^{r} Punderson[40]

One more letter from Governor Wolcott to Mr. Punderson sets the matter in a stronger light.

Windsor Jan^{ry} 30th 1752

Reverend S^{r}

Yours of the 11th of this instant I acknowledge, & observe that the late Bishop of London was of Opinion, that the Religious State of this Country is founded upon an equal Liberty of all Protestants; none can claim a national Establishment, nor any Superiority over the rest.

as far as I can know any thing about it, this Government is of the Same opinion & that this is the best Foundation of Love & Peace.

yet it is certain the Charter grants us a Power to govern the People religiously, this must intend Something, & if it be not a Power to Set up the Gospel & Support it & to oblige the people to attend the Publick ordinance of it, it is nothing: for where there is no Religion, there can't be any acts of Government about it.

when the Charter was granted, there was Scarcely a Chhman in the Country, it was chiefly Settled with Congationalists, & Presbeterians, & these two Sects are now intermixt in almost all our Plantations, and when either of these Sects were able Seperately to Settle & Support a Minister, they were Never denyed, & the like Liberty is granted to all other Protestants and the Professors of the Chh of England are expressly allowed this Liberty. But when in any of our Plantations one Sect was

[40] Connecticut Historical Society Collections, XVI, 118–120.

not able to Settle & Support a Minister, the Law is that they Shall do it Joyntly, and this without any View or Consequence of Setting one Sect above another, but as a thing necessary for the Being of the Publick worship in our Plantations; and this order has flourished for more than 100 years. The Chhs Settled in our Several Plantations, have flourished in Peace & Law &, I hope, in aboundant Increase of Godliness, & no one Sect in all this Time have complained, y^{t} they were made inferior to another: and altho' at this Time y^{e} congregationalists & Presbeterians together Support the Same Minister, yet neither of 'em think themselves Superior or inferior to the other.

And is there not the Same Reason, that the Professors of the Chh of England, that are not able to Settle & Support a Minister of their own, neither live So near that they can & do hear one, Sho'd have the Same Easiness & be looked upon as no ways made inferior by it? Especially Since it is necessary it Sho'd be So, in order to Support the Gospel & oblige 'em to attend the public Ordinance of it.

You inform me that those that Submit to you, must Every Lords Day, worship according to the Liturgy & read Sermons. I Suppose all this without any Minister, & Suppose this had been allowed to the Presbyterians, Congregationalists & all other Sects from the Beginning, No publick meeting Houses, nor order no Sermons preached no officers to take Notice of, or punish Omissions in Attendance, what can we conclude, but that the People wo'd have been without Knowledge, & even almost without the Trace of Religion, w^{ch}, I believe, you will acknowledge, to be generally the Case in all the Places of his Majesties Dominions in America, where no Care is taken of Religion by the Government? And if the Professors of the Chh ought to be left at this Liberty, So ought every other Sect: and all wo'd Sink into a Mist of Ignorance & Profaneness.

when these things are well considered, I think, the Apprehension of our Setting one Sect above another will cease, & the Society will be Satisfied, for I presume the Society for propigating the Gospel will never be fond of using their Power to Screen men from attending the publick Ordinance of it.

But I am concern'd to find that you purpose to enter the Prison when the Execution is Served, & tho' I can't Supersede the Judgment, yet I Sho'd rejoice to be a means to prevent your Going to Prison, & why, Good S^{r}, Sho'd a Gentleman of your Estate & Character be So fond of Going to Prison?

The reason y^t^ you intimate is y^t^ it will not Sound very pleasantly at Home, & I may Say that it will not Sound very pleasantly here, for it is indeed a moving thing to See a Gentleman of the Clergy go to Gaol. But wise & good men will consider the Legality of the Action & Justness of the Cause & Censure accordingly. & in this Case it will be found, y^t^ you were not committed for your Religion, nor forced into the Law & condemned beyond w^t^ you are able bear, but upon a Judgment obtained against you in a civil action brought by yourself & So is no more than is the Case of every other Subject.

you further observe that you are a Member of one of the greatest Societies in the Nation & Missionary from another.

Wise men will always allow you all that Respect that is due to your Caracter, but will hardly allow you to be bigger than the King who is much in the Law & oftenast, but has never yet pleaded his Caracter as Sufficient to exempt him from abiding the Judgment.

you further observe you Shall be committed for non Payment of an Execution for a Tax taken from your Parishoner.

Tis the first Time I have ever heard that an Itinerant was Minister of a Parish, I have heard that your Mission extends all over New England, if So, you've a large Parish, be that as it will & admitting y^t^ all you Say is true; yet it was a Question whether you had a Right to y^t^ Tax, & in bringing your action you claimed your Right to it by the Statute & prayed the opinion of the Court upon it, the Court determined it against you, 'tis impossible you Sho'd be wronged in this Case, unless the Court denyed you a fair Tryal or Erred in Judgment, but of these you don't complain.

When these things are duely considered good Sr this Action of yours may rather blemish than Serve your Cause as merely voluntary to Stir up Resentment without Just Grounds.

But I Submit the Matter to you, & if you think there is nothing in what I have S^d^, yet be assured it was done to Serve you, & is all, I think, that at present I can do in this Case consistent with Reason & the Law; you'll therefore excuse the Freedom I have taken & esteem in

your Friend & humble Serv^t^
R Wolcott

To the Rev^d^ M^r^ Eben^r^ Punderson
(Indorsed) To M^r^ Punderson Jan 30^th^ 1752[41]

[41] Connecticut Historical Society Collections, XVI, 145–148.

From a letter from Rev. Matthew Graves of Hebron to the Society, written shortly afterwards, it would appear that there was serious ground for the charges made.

Matthew Graves to Philip Bearcroft Secretary of the Society For the Propagation of the Gospel.
Good Sir/

I was hoping y^t^ Time & Reflection wou'd have produc'd some proper & expected Alteration in y^e^ minds of these People; but despair, while M^r^ Steward & Cap^t^ Durfey so inflexibly unite in their malicious Principles & infidel Preaches. In all other Instances no Persons are at greater Variance, but in persecuting y^e^ Ministers of Christ, like Pontius Pilate & Herod, they become Friends. How indefatigably they have strove to confirm this Assertion, M^r^ Colton will demonstrate to a little. No base Arts or Devices have been spar'd (during his Continuance here, where he embarked) to deceive him in my Character in order to paint me to my Patrons & Superiors in y^e^ most frightful Shades. But whilst I can engage Jehova Nisi on my side, I will not be afraid of what Man can do unto me. I formerly laid before you my Objections to M^r^ Colton's Designs, & am convinc'd in my Conscience he's a most improper person for holy Orders. On y^e^ 7^th^ of July last he procur'd two Boys, one aged 15 y^e^ other not so old, to swear against one of my Parishoners at Hebron; but happily y^e^ Justice saw thro' y^e^ horrid Design, & prevented Perjury. I examin'd the elder & ask'd him, how he cou'd know y^e^ person exactly at nine O Clock in a dark Night & at a great Distance? He said he thought it to be him. The poor man was arrested upon y^e^ Night Law for turning horses out of M^r^ Colton's Land; tho' by two aged Witnesses upon Oath it was prov'd he had not been out of his House y^t^ Evening and y^t^ Night. As M^r^ Colton says he go's for holy Orders from an inward Call, independent of y^e^ Society, I have sent y^e^ original Papers, relating to this Fact, wrote by y^e^ Justice, to his Lordship; before whom I have also laid an Original Bond; drawn & sign'd by Colton, a true Copy whereof you have here inclos'd. The wicked Design you'll easily perceive, only let me observe, y^t^ it's computed he has taken about £10 for y^e^ Loan of £20 for half a Year. I could lay before you several other enormous crimes; wilful, deliberate Perjury against me before a Justice I was an Eye-witness

of, w^th^ many other particulars, too numerous to write, too offensive to be heard. But Gods Will be done!

I have little to say of y^e^ Progress of these People in Virtue, or y^e^ Good I do among them. I have however regularly prepar'd & lately baptized five Whites, & two Negroes, all adults, & have others under proper Instructions, in order to initiate them into Christianity. Certainly this Congregation wou'd flourish exceedingly were two of its Members of another Persuasion, or rather of a more Christian Spirit. I desire to know how my last Requests were accepted by y^e^ Venerable Society. Their Will shall always be agreeable to me as my sole Study shall be to promote y^e^ true Religion of Christ & y^e^ Glory of his Church. When you are at Leisure to honour me with a Letter be pleas'd to send it to M^r^ James Honeyman. I hope an Order for this, in Favour of M^r^ Slone of this place, & of M^r^ Moneyman for next Quarter will meet with proper Encouragement. Your condescending to present my Duty & Service to my Venerable & August Patrons is y^e^ earnest Request of their Sincere Missionary &

Good Sir
Y^r^ most grateful
hum^le^ & obedient Serv^t[42]

The following letter, to the "Venerable Society" manifested an attempt to make a firm stand in behalf of equal privileges and protection to all in matters of religion.

Windsor Dec^r^ 26 1751

Rev^d^ S^r^

When I Rec^d^ your first letter and observed the heavie Imputation of violence and opression Laid upon this Govern^t^ by the Society I Concluded there was some facts Complained of to them that might Justly Draw this Imputation upon us therefore I desired to know the Complaint that we might do ourselves and others Right and thereby satisfy the Complainer

But when you had by yours of the 23^d^ of Nov^r^ shewed me the Complaint and that you were the Complainer I took the Complaint into Consideration and observed

Then when you had informes that A Judgment was given ag^t^ destrained from and Imprissoned some of the professors of the

[42] Connecticut Historical Society Collections, XVI, 121–123.

Chh of England you had been so carefull to keep your self within the truth as not to Intimate that this was not the Case of Every Prebiterian within the Colony that refused to pay his Tax

That when you had informes that A Judgment was given ag^{t} you you were Carefull not to charge that Judgment with Error yett Admitting there had been Error must the Govern^{t} be called Opressors because they did not put in Judges that Could Not Err but so Came to a Case paralell with this

one Informs me that you have preached a sermon and no waies Complaining but that it was orthodox shall I call the society Hireticks because they Gave you a Mission

I believe S^{r} you must look out and find me some other Complaint before I am fully Informed in the Case

your Notion of an Itinerant (that is a man Journeying) Resident is New to me but I have no pleasure in Contending about Words and had rather Consider of things

And how if a Minister that hath two parishes and Constantly keeps an able Curate in is Justly Complaind of as hurtfull to Religion because he is not there Resident himself Lett the question between us be whither an Itinerant that hath fifty parishes in his Mission and at such distance that many have Joined themselves to him dont hear him above once or twice in a year be not as hurtfull Especially if his Ministry has this Efect that it prejudices them ag^{t} the Ministers of their parish and keeps them from Atending any publick Worship all the rest of the year only those two times that they hear him: I dont charge this upon you but you know S^{r} that the Laws of this Colony Enjoin all persons to attend the publick Worship under Certain penaltys in Case of a mission this Law I think you will not Complain of because it is of a sort with the Law of England there is Complaint that some persons that used to give due Attendance till they Joind with you since then give no attendance only the few times in a year they hear you

The Justices are sworn to put the Law in Execution but when such persons are brought before them they plead the Minister of their parish is no Minister of Christ and so will unchurch all the Churches in the Land and the greater part of all in the Protestant World and when Asked if they attend your ministry duely as the Law Enjoines They plead the Distance was so Great that it was Impossible

This brings us under Great Dificulties these men must be punished or the Justice break his oath of the Law must be repealled

which I think you not plead for because it is the same with the law of England and because it would lead the loose people in the Land to a remissness in hearing of sermons and to spend the sabath in Idleness or acts of prophanation

And here I must leave it with you and all Good men whither in this Case Religion is not more wounded than in that of a Non Resident Minister.

I assure you S^r^ that your faithfully Transmitting to the Society your Dificultys and under the Caution you propose shall not offend me. And that I shall alwaies be ready to do you any service Consistent with reason the Laws and the Interest of our Redeemers Kingdom and am Rev^d^ S^r^

your very humble servant
R Wolcott.[43]

The following entry in the New Haven Records shows that there was some severity in guarding points of theology.

Arthur Smith of Southold being sent ouer to answere for seuerall great & gross miscarriages, was called, of whom it was demanded how he came to be corrupted w^th^ y^e^ opinions of the Quakers, to w^ch^ he answered that he knew not that he was corrupted. But that he was both a corrupted man & a corrupting man, what was sent in writeing from Southold & therein witnessed against him was read, w^ch^ is as followeth,

Joseph Horton, Junio^r^; this deponent saith that Arthur Smith affirmed that if men would attend to that light is within them, it would lead or bring them to heaven. 2, hee affirmed that there was no divill, either before or in Adams time, he affirmed that either infants had no sin, or were charged with noe sin till they sinned actually. 4, he affirmed that he had no gouerno^r^ nor teacher but God, & further this deponent saith not.

Tho: Mapes; this deponent saith that Arthur Smith affirmed that he had no gouerno^r^ or teacher but God, & that mens lawes were corrupt, also he affirmed that the 7 churches in Asia were the 7 vialls, & that there was no such thing as 7 churches in Asia; lastly this deponent saith that haveing demanded of Arthur why y^e^ Quakers gazed or stared so in the faces of men & women, he answered him, that by looking on men they could tell whether

[43] Connecticut Historical Society Collections, XVI, 130–132.

they had the marke of the beast to be seen in their forehead & right hand, or no, & that hee himself could tell or discern it, but as for people themselues, they could not tell, & further saith not.

Charles Glouer; this deponent saith that Arthur Smith affirmed in his hearing that the churches & the 7 vialls were all one, and further affirmed, saying that he whom you call your minister or teacher knoweth no more what they be than this child, poynting to one of his children, and affirmed that there was neuer any such churchs; moreover he affirmed that he was not to submitt to mens lawes; to who this deponent replied that he must be subject to gouerm^{t} in what part of the world soeuer he lived, & advised him to take heed how he spake against gouerm^{t} & pceeded in these wayes, lest he brought himself & family to misery, his answere was, what have I to doe wth that.

Philemon Vicarson; this deponent saith that while he opposed Arthur in his nullifying of magistracy & ministry, alleadging y^{t} text, Ephe. 4, When Christ ascended on high he gave gifts to men, Arthur replied, that though there were gifts given to me, yet no power, & that this power men take to themselues & it is vsurped power; further Arthus sd that their teacher was non of his teacher; and vpon further reasoning affirmed that children had no sin till they had acted the same in their owne psons; o^{r} constable Barnabas Horton was p^{r}sent & heard this discourse. Many other things at this time and at other he hath heard Arthur declare & speake to his greife, but he hath let slipp many of them, & further this deponent saith not.

Barnabas Winds, Junior; this deponent saith that Arthur Smith affirmed in his hearing that the three freinds of Job w^{ch} came to vissit him, were the three persons in the Trinity, & further this deponent saith not. . . .

Arthur Smith being examined & required to give answere to the seuerall pticulers before mentioned, the court finding his answers to be both pphaine, absurd, conceited & ridiculous, he was warned to take heed of dallying with y^{e} foundamentall truthes of God, & was told that the court looked vpon him as a man of a pphaine spirit & disorderly way, that would ouerthrow the order & gouerment that God hath established in church & commonwealth, as one y^{t} hath spoken pphainely at the best, & blasphemously, as is testified by one witness, for which things, so far as they are fully proued against him & confessed by him, it was ordered that he be whipped, & that he be bound in a bond of

50li for his good behavior for the time to come, to carry it in a comely & inoffensive manner, wch if he did not, he is to appeare here at the court of magistrates in October next, if he be not remoued out of the jurisdiction in the meane time.[44]

* * * * *

The history of society must precede the science of society, and a hundred years ago that history was almost unwritten. One branch of it, for America, is unwritten still. It is that of the rules of conduct by which from generation to generation we have governed our daily lives.

Like every people, we have had duties, which have been well or ill performed, to each other, to our country, and to foreign nations, or the world at large. We have had also, by the force of circumstances, special duties to the Indian and the negro.

It would be impracticable, to look back of the seventeenth century. The few and scattered settlements previously made had no independent life and character of their own. It is with Virginia and Plymouth that the real history of the United States begins.

If I were to name the characteristic of that century in the world at large, I should say that it was or gradually hardened into an age of formalism. Bacon and Shakspeare could not stand up against it to stem the tide. They spoke, indeed, for the century before, out of which they passed with their reputation won. The literature of the seventeenth century became one of creeds and catechisms. There was a conventional language of courts, to which the very Prayer Book stooped in its petitions for "our most religious king." The lawyers were busy in inventing writs instead of explaining

[44] New Haven Colony Records, 1653–1665, 291, 292.

rights. The work best esteemed was that which put in shape what earlier times had thought out.

Rigidity of form in human society cannot last long. There is sure to come an explosion from within. The mine may be laid by some hand, like Pascal's, and fired by a spark of irony, or by one more daring and more reckless of what may come, like that of Voltaire or Rousseau.

The eighteenth century was a long attack of scepticism upon formalism, and formalism fell. There fell with it that spirit of reverence for institutions which is the supreme safeguard of national morality. Men easily obey customary and established rules of conduct, so long as they do not ask how they came to arise and what purpose they really serve. But he who stops to debate with himself whether it is right to steal or lie, as each occasion presents itself, will often find the stronger arguments on the side of what seems immediate self-interest.

Scepticism conquered, and the divinity that had hedged about the kings of Europe fled before it. The French Revolution brought in a new order of things for the world. It set before it, as Carlyle has described it, "truth clad in hell-fire." The fire was gradually quenched: the truth abides,—the truth that equality is equity, and that human authority rests on human consent.

The nineteenth century has been one of scientific and industrial advance. Its greatest lesson has been taught by science in the realm of thought,—that wrought out by the minute investigations of Darwin and Wallace in the law of evolution, before which so much of what

had been the world's conclusions as to our moral nature has been swept away.

Virginia was planted by men who were born in the sixteenth century, and who belonged to it in spirit. It reproduced the morals, the methods of government, the very religious establishment, of the mother country. Its representative system was kept in check by the veto power of a royal governor. Its pride was to be most nearly like the land to which it owed allegiance and from which most of its colonists had come.

Whatever was peculiar in American life first appeared in New England. Here for a hundred years the people were almost wholly English, and yet thoroughly un-English in their moral and political ideals. Everywhere else, before the Revolutionary era, there was found a large ad-mixture of Scotch, Irish, French, Dutch, Germans, and Swedes.[45] Few, if any, of these nationalities were found east of New York; while in 1685 they constituted half the population of Pennsylvania.[46] They were also numerous in France at the time of the revocation of the edict of Nantes.

The American of the Middle colonies, up to the close of the eighteenth century, had no interest in the development of any theory of morals. In the words of one of them, written just before the Revolution, "Industry, good living, selfishness, litigiousness, county politics, the pride of freemen, religious indifference, are their characteristics." [47]

There was then one deep-rooted cause of distinction

[45] Letters from an American Farmer, Letter II. p. 32, ed. of 1783.
[46] Winsor's "Narrative and Critical History of America," iii. 485, 491.
[47] Letters from an American Farmer, Letter II. p. 36, ed. of 1783.

between the Eastern and the other States. In the latter, morals lacked the support of a system of public education.

Out of the larger towns, children received little instruction, except such as their parents might be able to give them; and this, scanty at best, was apt to be most deficient as to matters of religion.[48]

It is also true that, of the inferior classes of society, while New England had probably imported quite as many servants from England as any other colonies, she had received fewer convicts or redemptioners. The convicts transported were naturally sent to colonies more strictly under the police power of the mother country, and the redemptioner generally looked for a more friendly soil and softer climate.[49]

It should not, however, be imagined that the English convicts sentenced to transportation to America were hardened villains, who had committed atrocious crimes. Such were then hanged. The convicts sent us were mainly from Northumberland, bred on the soil where Scotch and English were so often in conflict, and guilty of no greater violence against their own countrymen than it would have been considered almost praiseworthy to commit across the border. They were sold on their arrival to the highest bidder for the term of years for which their sentence ran. Readers of Thackeray will recollect the seven years' labor that Corporal Brock, for the theft of three pewter pots, unwillingly bestowed on the tobacco fields of Virginia.

The redemptioners generally came from the poorest class of British and Irish laborers, and sold themselves

[48] *Ibid.*, Letter II. p. 40, ed. of 1783.
[49] *Ibid.*, Letter II. p. 40, ed. of 1783.

for a term of years, commonly three, to pay for their passage over.[50] They arrived bound in this way to the captain of the ship that brought them, or to his order; and he sold them in lots of fifty or more to speculators, commonly called soul-drivers, who marched them off through the country, to be disposed of among the farmers, one by one, as opportunity offered. The last gang thus driven through Pennsylvania, it is said, was made up in 1785. At the end of a long tramp all were sold but one, a young Irishman, with whom the soul-driver put up, as night fell, at a country tavern. The redemptioner rose early, sold his master to the landlord,—who did not know which was which,—and made off with the money, saying, as he left, that the fellow was clever enough, but a little saucy, and had once tried to pass himself off as the owner of the gang, so that the purchaser must not be surprised by any lies he might tell.[51]

Virginia early became the home of another class of wanderers and outcasts. The street Arabs of London, of both sexes, were picked up by the police and shipped there, in considerable numbers, soon after its first settlement, and bound out as apprentices.[52]

The Southern States had also soon to contend with the degraded class of citizens known as the poor whites, who sank in morals as they sank in caste. Slavery made them what they were. They felt that, because they were not black, they need not work; and idleness produced every other vice.[53]

Morals have no sure and solid foundation in a com-

[50] Mazzei's "Recherches," ii. 15.
[51] Day's Historical Collections of Pennsylvania, p. 209.
[52] Winsor's "Narrative and Critical History of America," iii. 143.
[53] Mazzei's "Recherches," iii. 192.

munity where public sentiment regards as a breach of morality the temperate statement of an opinion on any matter of intellectual belief which differs from that generally prevailing.

Such a community was every New England colony, except Rhode Island, during at least the first century of its existence. That the only subject upon which no differences could be tolerated was religion made it all the worse. Of all subjects, this is the one on which men are most bound to think for themselves.

Within certain limits this feature of New England life was shared also by the other colonies. Maryland and Pennsylvania came nearest to Rhode Island in the direction of toleration, but neither went by any means as far.

The famous Act of Maryland, passed in 1649, was only in favor of those "professing to believe in Jesus Christ." To deny the doctrine of the Trinity it made a capital offence. Another of her statutes declared that the "Holy Church within this province shall have all her rights and liberties." [54] This, of course, was a decided recognition of papal authority.

Pennsylvania, while proclaiming from the first liberty of conscience as her foundation principle, explained that this did not include irreligion or atheism, and required Sunday to be kept with strictness as a holy day.[55]

Virginia in 1619 required "all persons whatsoever" to "frequent divine service and sermons on Sundays, both forenoon and afternoon." The "service" was that of the Church of England.[56] In 1642 the New England Congregationalists attempted to introduce their form

[54] Winsor's "Narrative and Critical History of America," iii. 530.
[55] *Ibid.*, iii. 487.
[56] *Ibid.*, iii. 143.

of worship there. Three missionaries were sent down from Boston, and met with so much success that the next Assembly passed a law that no ministers except those of the Church of England could remain in the colony; and their followers were soon afterward imprisoned or banished, finding a friendly shelter in more tolerant Maryland.[57]

But it was not the only mark of the influence of the age that the State maintained this guard over the Church and the conscience.

It was an additional misfortune that the ethical side of religion, as it was taught by those in authority, was taught but poorly.

We are probably bound to go farther, and say that the theological doctrines generally taught in our Protestant churches, until the present century, cannot be regarded as wholly favorable to a lofty standard of morals. I do not refer so much to the religious teaching of the pulpit as to its standards of belief. These were framed at a time when the character of the Bible was but imperfectly understood by the majority of men. It was a kind of Sibylline book, one leaf, one text, from which was commonly accepted as of equal authority with any other.

Men like to lean on something stronger than themselves,—to learn of some oracle. The pope had served them in this way; and their unreasoning reverence for him had, in the multitude, among Protestants, been replaced by an unreasoning reverence for the Bible, as a book every line and word of which proceeded from divine inspiration. Scholars shared these sentiments

[57] *Ibid.*, 147, 148, 531, 535.

sufficiently to use it as a quarry from which to construct in scientific arrangement a complete system of faith.

Theology is a science. We need no more wonder that its exposition by the Synod of Dort or of Cambridge, or the Westminster Assembly, was defective than that the books of their contemporaries on astronomy and chemistry were.

The Protestant confessions, or theological symbols, were all—Lutheran, Calvinistic, Anglican, American—founded on the conception of God which we find in the Pentateuch. They grounded the duty of man on metaphysical subtleties, and stimulated him to perform it by motives of self-serving expediency. They painted to him in strong colors a passive bliss of heaven and an excruciating misery of hell. They presented what has been aptly styled a commercial theory of the redemption of believers from the empire of evil. They were almost silent as to ethics as a rule of conduct, as to the practice of virtue for virtue's sake.

These well-meant but futile efforts to throw the warm and glowing words of Christ, so full of human love and tenderness, and yet so intolerant alike of wrong and injustice, of cant and formalism, into harmony with every word and act of Jacob or Moses, of David or Solomon, and to chill the whole into rigid articles and creeds, brought upon New England, and to a less extent upon all the American colonies, two great evils. There were many among the clergy, after the first generation or two had passed away, who felt themselves compelled to assent to doctrines which they but half believed or believed only on authority. There were many among their parishioners who accepted the letter of their creed rather than its spirit, and were content to lead a hard

and selfish life, regarding themselves as having, by some mysterious process of regeneration, been made sure of eternal happiness.

That man works best who renders free and willing service to one toward whom his feelings are those of love and confidence. It was the jealous God who visited the iniquity of the fathers upon their children down to the third and fourth generation, the offended sovereign, the austere task-master, whom seventeenth-century theology called on men to fear and serve.

Such a system gave some men the strength of iron, but it depressed and even debased the lives of thousands.

The morality of Puritanism, as Mr. Lecky has said, was a masculine morality. Its type of virtue was the *vir*,—the strong, upright, unswerving, indomitable man, rather than that character of tenderness, loyalty, long-suffering patience, disinterested devotion, that belongs in its highest form to woman, and woman only. But one man has ever yet attained all the grace of womanhood without losing any of the force of manhood. It took the special touch of heaven; and we must still say, "Never man spake like this man." But it was not the Christ that really controlled the life of the followers of Cromwell in England or of Winthrop and Dudley in New England. It was the Lord God Jehovah of the Old Testament. It was the God of our fathers in whose name they fought their way. Their tone of aspiration, as a people, never rose higher than that which animates, for instance, the grand movement and march of Rudyard Kipling's "Recessional." There were many old Cromwellians scattered through the American colonies, after the Stuarts came in again. They had the hearts for the "far-flung battle line." They owned, too, that

a broken and a contrite heart was the true sacrifice to offer even to the Lord God of hosts; but they did not feel it. The tender, loving element in Christianity did not appeal to them out of their own households.

Hence came some all too familiar pages in our early history which, if we could, we would blot from memory, —the trials for witchcraft and the persecutions of Quakers, Roman Catholics, and Unitarians.

Have we even yet quite escaped from the shadow of their influences?

The morals of a people, in any generation, are largely shaped by the preceding generation. "The child is father of the man": the lessons of the school and of the Sunday-school are never forgotten. Are we right in continuing to give such prominence to the Decalogue as a standard of conduct in our systems of religious instruction for the young? Are we wise in still treating it, after the manner of our fathers, as a short code of morals, applicable to the Christian world as fully as to the Jews in the days of Moses? At the best, the ten commandments can be understood by children but very imperfectly. Do they put God before them as a loving or as a jealous and revengeful being? What are they to believe when they are told they must put aside their games and playthings on Sunday, the first day of the week, because God rested on Saturday, the seventh day of the week, and hallowed that? The first commandment, as soon as they are old enough to reflect at all, will be apt to suggest polytheism to them; and the last will be quite inexplicable until they have mastered the meaning of the seventh.

I am always sorry to see a small child set to committing the Decalogue to memory. If he could really under-

stand it, he would see—and, when a few years older, he is sure to see—that it contains only a few precepts, fitted for a half-civilized people who could bear no more.

But he does not really understand half of it at all.

Some years ago a grandchild of an American authoress, distinguished for contributions to Sunday-school literature, was found swinging on a neighbor's gate, to the manifest peril of the hinges. The wife of the man who owned the fence stepped out, and asked him to get off. "No, I won't," was the prompt response. "Why, Charley," expostulated she, "you really must. It is sagging the gate badly. You have no right, you know, to go off and get up on a neighbor's gate." "I won't get off," was the sturdy reply. "I don't care anything for my neighbor, nor for my neighbor's wife, nor for his ox nor his ass, nor his man-servant nor his maid-servant, nor anything that is my neighbor's." "Charley," said she, gravely, "do you know where you learned that?" "No," he replied, "but I guess it was from Grandma. It sounds awfully like her."

I am afraid that not a few of the precepts of the Pentateuch have been quite as much misapplied by a good many of Charley's predecessors on American soil.

The path of morality needs to be lit up by sunshine. It may be made an attractive path by religious teachers; and it has been our misfortune that our religious teachers have insisted so strongly, and almost exclusively, in the past on its hard and formal side. Heaven itself has hardly been painted as a pleasant place for an intelligent being, finding his best satisfaction in well-directed activity, until what I may call the Tennysonian theology came in, during the last half-century. The great poet once laughingly described the fundamental

error, which he was born to combat, in these words: "The general English view of God is as of an immeasurable clergyman; and some mistake the devil for God." [58] I fear that what he then said of England might have been said, with almost equal point, of America.

The standard of morals in any country is largely set by its literature. What is read most tells most upon the national life.

In early New England, whence came the first beginnings of American literature, it was the Bible that was read most. It had not been a common possession long enough to lose its freshness.

A member of the theological faculty at Yale once remarked to me that, in a recent conversation with a Japanese student in the philosophical department, he had asked him whether he had looked into the New Testament yet; and the answer was that he had, and had got as far along as the middle of Mark's Gospel. "I envied him," said the professor, "those first impressions that the book made on him, but from which we are absolutely shut out by the education of our childhood." The Pilgrims were grown men before the Bible, as we know it, appeared. The former English translations had been uncouth and rough, and published in a form that was both too bulky and too expensive for general use among the common people. In 1611 came the King James version, and it opened a new door into another world. With its simple and yet stately diction, it attracted universal attention, were it only for its literary merits. It soon made itself the standard of English.

[58] Life, ii. 90.

It was from the first the acknowledged standard of conduct. It was for every reason the book of books to the Puritan and the Independent.

As we look at the history of the English people in the seventeenth century, one might almost fancy that they commenced to read it, when it first came into their hands, at the beginning, and never got any farther than Isaiah. They had then gone far enough to find what they wanted,—a warrant to be free.

Political circumstances certainly tended strongly to throw them back upon the Old Testament for their heroes and for their principles of action. They were under oppression, and were fighting their way to civil liberty. They were on the brink of great changes in government,—of the civil war and the Commonwealth. They were painfully toiling on toward a land of promise. As they looked for leaders, they felt more need of a Moses or a Joshua than of a Saint James or a Saint John.

The Bible, then, and the oldest books in it, set the tone of New England life for the seventeenth century, and to a large though less extent that of the Middle and Southern colonies.

Then came the dark ages of American history,—a period, indeed, measured by generations rather than centuries, but which sprang from the same causes as those which beclouded Europe after the fall of the Romans.

The men of learning whom religious enthusiasm had driven across the Atlantic at the outset of the English settlements had gone back to share in the new order of things which Cromwell had established, or had passed away. Harvard and Yale, William and Mary, and

Columbia were not yet ready to fill each vacant place. The license of the Restoration had not been without its reflex influence here. The successors of the Stuarts brought to the throne morals almost as loose, and the king's bishops met the king's mistresses at the court of the early Georges. Protestantism had sunk into formalism in England, and it tended to the same level here.

The barbarians, too, were always upon the frontier, —barbarians who better merited that name than the Franks and Northmen of European history. Their savage atrocities provoked, and perhaps justified, atrocities no less savage in return.

There are wars which beget a spirit of moral heroism, but they are not wars between the white man and the Indian. Wherever these are waged, it is cunning that must meet cunning, cruelty that must revenge cruelty. There is no place for generous emulation or lofty chivalry.

Such an age could have no native literature, unless it were a rough and reckless poetry. It had not even that. There were endless volumes of sermons, endless controversial pamphlets on points of scholastic divinity, —nothing to call a people higher, or even to direct it to the best life it actually had.

Then came the "great awakening" in religion, that was part of that greater awakening of the world to what was real and good in it. Wesley revivified the Church of England, and Whitefield the churches of America. The Revolution drew on. Science, ethics, the arts of civilized life, claimed place. Franklin gave his countrymen the first good English from an American pen,— the first plain lessons for every-day life from an American standpoint.

It was the dawning of our second heroic age. The first was that of the Pilgrims; the second was the Revolutionary era; the third, that of the Civil War.

The Revolution completed a new literature, a true literature. Patriotism asserted itself as the supreme rule of society. Liberty, fraternity, and equality followed in its train.

There was a general attack upon the old order of things. Religion did not escape. It ought not to have escaped. American Christianity had become metaphysical, unreal, unsubstantial. It treated the Bible in a spirit of literalism, and, for the most part, in absolute ignorance of the relations of the Old Testament to the New or of the various writings in either to each other. It refused to own what there was of truth in the criticisms of Tom Paine, and the consequence was that the whole of them were accepted as sound by a large part of the people. The close of the last century found infidelity wide-spread, and nothing strong enough to oppose the general depression of morals which naturally follows a long war.

The reorganization of government incident to the adoption of the Constitution of the United States, and the work of developing the new nation, opened the way to new aspirations, and threw our literature into new channels,—those of politics and trade. We made haste to get rich, not without the consequences that Solomon predicts. We had, for the time, no leisure to read books.

To replace them, we created the newspaper. Up to that time the newspaper, wherever in the world one was printed, had taken much the place now occupied by the magazine. It had made little effort to secure the news

of the day, and crowded what it got into a corner, to make room for lengthy disquisitions on topics of remote concern.

Freneau and Duane taught it new uses. First the weekly, and then the daily press began to be one of the great powers of society; nor has it ever been displaced. The time when an English critic could scornfully ask, "Who reads an American book"? has long since gone by. It is because America writes better books; but the American newspaper still holds its early position. We may truly say that it deserves it. It is, more than anything else, the distinctive thing in American literature, —the thing which no other country does so well. There is, indeed, nothing, outside of London, like the London *Times*. Every line of it shows thorough work. But what does it cost? Who can afford to buy it? The very beggars can give a cent for the New York daily and find it a library of current history.

The American newspaper is seldom a fair critic of a public man. But it is seldom other than a fair critic of public morals. That very public opinion which it has helped to create reacts upon it, and compels it to uphold in the abstract honor and integrity, purity of thought and dignity of life.

But the literature of a country alone is no sufficient guide to an understanding of its moral character. Political conditions and social changes must be given a large place. The French war, between 1756 and 1763, had quite as much to do with relaxing the moral tone of the colonies as any fault to be found with the current theology or any lack of readable and wholesome books.

English troops were then stationed here for consid-

erable periods, and soldiers often billeted on private houses. A large part of the able-bodied colonists were at one time or another in actual service. The full force of the general spirit of license which comes in the train of war was felt throughout New England, and religion and morality both suffered.[59] They declined still further during the Revolution. "It unhinged," said President Dwight, of Yale College, in a Fast Day sermon in 1812, "the principles, the morality, and the religion of this country more than could have been done by a peace of forty years." He had been a chaplain in the Continental army, and was a close observer of men and manners.

In 1796 the church of Yale College had but a single member among the students.[60] The ordinary churches in New England were still well filled at the Sunday services, but people went largely as a matter of fashion.

Not a little of the Colonial legislation of the seventeenth and eighteenth centuries was of a kind to depress the moral standards of the people. Their respect for rights of property had been deadened by the consequences of the Colonial and continental emissions of paper money. One who borrows a thousand dollars in gold for five years, and then pays off the loan in paper worth but a fraction of its face, is a gainer in one way and a loser in another. A wrong has been done; and, though there was a law for it, he must share in the responsibility for the existence of the law, and assume the undivided responsibility for taking advantage of it. "There is so much injustice," wrote John Adams in 1777, "in carrying on the war with a depreciating cur-

[59] Silliman's "Eulogium on President Dwight," p. 5.
[60] American Unitarianism, Boston, 1815, p. 40, note.

rency that we can hardly pray with confidence for success." [61]

The States, however, went on as the Colonies had done, until the nation rose up to forbid it in the Constitution of 1787.

There was another Colonial practice also which it was not easy to shake off after independence had been achieved.

Smuggling had come to be regarded almost as an act of patriotism, when the English navigation laws were bearing so heavily on American commerce. After the United States were granted power to tax imports, and made this their principal reliance for revenue, it was hard for those who had profited by cheating the British custom-house to respect the American one.

A lowering of the standards of business conduct is particularly unfortunate among an active and enterprising people. It is too rapidly multiplied.

Persistent and unremitting industry was from the first a general trait of Northern character among those of English stock. A Pennsylvania farmer, visiting Massachusetts in the last century, remarked with admiration that he observed many of the people, while buying and selling at a market, occupied in whittling cedar into bungs, so as not to be idle.[62] But men who are thus always on the move are apt to magnify the good of money, and treat its gain as the chief end of life. Starting from that basis, there is not far to travel between skill and trickery.

The wave of speculation and false financiering which broke in the commercial crisis of 1837—first of a series

[61] Life and Works, ix. 463.
[62] Letters of an American Farmer, p. 129.

of recurrent panics in the money market—rose in the same kind of business methods.

A high standard of morality may prevail in a very simple or in a very refined state of society. It is not apt to be found where a people are climbing from one of these to the other.

Amusements began to assume a new prominence after the nineteenth century had fully opened, particularly those which brought some excitement with them. There was more gambling and betting, more horse-races and prize-fights. From making money freely we turned to spending it freely.

The Northern colonists at first had few amusements of any sort, and had leisure for few. Later, dancing came in. Public balls were common in city and country at the beginning of the nineteenth century,[63] and were occasionally given in New England in connection with the gathering at a minister's ordination. They were also a feature of the college commencements.[64]

The theatre appeared early in the South, but it was excluded by law from New England until that at Boston was chartered a hundred years ago. Some years previously, however, a few of the standard plays, such as the "School for Scandal," had been performed there under the innocent name of "moral lectures," though the practice had been finally broken up by the arrest of the lecturers while on the stage.[65]

Cards have really never been a household game in New England until the latter part of the nineteenth century; but this was a provincial peculiarity.

Americans, taken as a whole, have always paid less

[63] S. G. Goodrich's "Recollections," i. 87.
[64] Papers of the New Haven Colony Historical Society, iv. 204.
[65] Life of Josiah Quincy, p. 40.

attention to mere recreation and amusements than has been customary in other countries; and, as time has gone on, those most in favor have been the healthful and innocent.

Gambling was never as infrequent among us as during the last quarter of the nineteenth century. It is a vice which naturally springs up on the frontier or in the camp, or, indeed, wherever men are thrown closely together and at the same time deprived of the attractions of female society. It was long the bane of Washington, but has gradually retreated to the ocean steamer and the summer watering-place, or to the States of perpetual summer, where, in a climate that excludes the excitement of outdoor sports, the resort is still often had to that of the gaming-table.

Perhaps the ladies have met it half-way by their plan of playing cards for prizes between those who put in a dime or a quarter apiece with which to buy them. It is not a matter of satisfaction that what is virtually the old English custom of playing whist for shilling points has thus at last crossed the Atlantic. The women will not push it farther: the men may.

Betting on horse-races and boat-races, boxing-matches, and similar competitions, has become mainly confined to young men who have little to lose and to a narrow circle of the leisured class. Of late years it has threatened to make dangerous advances among the poor under the name of "policy-playing"; but repressive legislation has met it wherever it has shown its face, and generally with success.

Cock-fighting was, during the latter half of the eighteenth century, a favorite sport throughout the South; and among the poor whites and negroes boxing-matches,

which ended in gouging out the eyes of one of the combatants, were not infrequent in the Carolinas and Georgia.[66] In the general advance in the humanities of life, these have for the most part disappeared.

The dangerous fascination of the lottery, in which it was common to indulge during the first two centuries of American life, has now been everywhere withdrawn by force of law.

The Virginia Company had authority by charter to grant lotteries, and raised nearly £29,000 by one about 1612, to aid the colonists, who were then in a suffering condition. This, however, was an English lottery, though for an American object. The first drawn in this country was a kind of raffle for a house in Philadelphia. It took place in 1720, and was followed by so many and with such evil consequences that the Pennsylvania legislature in 1729 forbade any for which a special license was not given. In 1744 Massachusetts authorized a lottery to raise money for the expenses of the government, and it may be said that for about a hundred years after 1730, there were few of the colonies and States that did not occasionally resort to this device to help on public objects of one kind and another.

Churches, colleges, schools, roads, bridges, and other public works, all from time to time received aid from this source of supply.[67] The loan obtained by John Adams at Amsterdam for the United States, in 1784, was floated by aid of a lottery bonus of over 30 per cent.[68] There was also in Colonial days a large sale of English lottery tickets in America, embracing at the

[66] Morse's "American Geography," ed. 1792, pp. 390, 418.
[67] Annual Report of American Historical Association for 1892, pp. 174, 178.
[68] *Ibid.*, p. 182.

time of the beginning of the movement toward independence an eighth part of all that were issued.

And what has been our course in regard to those pleasures of the senses which so easily shade off into vice and misery?

In no great country of Christendom has the use of intoxicating liquors ever been so restricted as it is here today.

At first we had few of the richer classes, who find the social glass a pleasant aid to pass the time, and few of the poorer classes, who drink to drown their misery. The early colonists in New England used ale with some freedom. Those south of it added wine and spirits, but seldom took them to excess. During the civil war a New England clergyman returned to share the fortunes of the revolution, and, in preaching before Parliament, said, "I have lived in a country where in seven years I never saw a beggar, nor heard an oath, nor looked upon a drunkard." [69] Early in the next century (1710) Governor Spotswood, of Virginia, wrote of his province in a similar way to the Bishop of London: "I have observed here less Swearing and Prophaneness, less Drunkenness and Debauchery, less uncharitable feuds and animositys, and less knaverys and Villanys than in any part of the world where my Lot has been." [70]

The first Connecticut code (1650) forbade innkeepers to allow any one to drink more than half a pint of wine at one time, "or to continue tippling above the space of halfe an houre, or at unseasonable times, as after nine of the clock at night"; [71] and a few years later it was

[69] Mather's "Magnalia," i. 92.
[70] Winsor's History of America, iii. 148, note.
[71] Connecticut Colonial Records, i. 533.

enacted that any person found drunk in a private house should be fined twenty shillings, and the owner of the house ten more, and that no corn or malt whatever should be distilled.[72]

Among the second and third generation in New England the pleasures of the table began to assume a larger place. In 1679 the practice of drinking healths had become so common there that the Synod of Boston formally protested against it.[73] In Connecticut the way of living continued simpler and stricter, and a man was spoken of sneeringly who loved his bottle.[74]

The cause of temperance continued to decline in Massachusetts, and by the middle of the last century drunkenness had become a common vice. John Adams, in his early days, engaged in a movement to reduce the number of dramshops, which met with a temporary success; but they soon multiplied again under the influences of the French war and the Revolution.[75]

In the Southern colonies, as the people became prosperous, their cellars were well stocked and hospitably used.

A European visitor in Virginia, shortly before the Revolution, asked one day with all seriousness how much water cost there, and, when the reply was, "the trouble of going to the well," said that he had supposed liquor must be cheaper, since he could never get a glass at table without the greatest difficulty, while those who called for wine, cider, beer, grog, or toddy, were served at once. Mazzei, coming there from Italy, was the

[72] *Ibid.*
[73] Mather's "Magnalia," ii. 276.
[74] See letter of Samuel Willis to Governor Winthrop, of Dec. 25, 1697, in Massachusetts Historical Society Collections, 6th Series, iii. 31.
[75] Life and Works of John Adams, ix. 637.

guest of honor at a large dinner party at Norfolk in 1774, and asked a waiter to bring him a glass of water. The servants were at once thrown into confusion, and no water appeared. The host then whispered in his ear with a smile, "Is there nothing else you could drink? for your unexpected request has really turned my whole household upside down." [76]

Convivial indulgence in their use at private tables and in social intercourse between meals was the rule among the well-to-do classes throughout the country during most of the eighteenth century and the early part of the nineteenth.[77] There was no sideboard without its decanter, and no caller was received without being invited to take a glass of wine.

Excess was the natural result, and there was for a time real danger that drunkenness would become a national disease.[78] The very funerals were followed by a return to the house for a glass of wine and a pipe, which often ended in scenes of intoxication.[79]

Notwithstanding this, however, the rapid increase of wealth and luxury throughout the Eastern States made the use of liquor at the table or on the sideboard still the rule. The ministers at ordaining councils had their punch and pipes, provided by the church. The judges, after court, had their punch-bowl, too, provided by the State and taxed in the bill of costs. In 1833 one of the leading hotels in New York (Bunker's) had no other place for gentlemen to sit than its bar-room; and on its *table d'hôte* dinner-table, at regular intervals, appeared

[76] Mazzei's "Recherches," iii. 201.
[77] Dwight's "Travels in New England and New York," iv. 353.
[78] Adams's History of the United States, i. 47.
[79] New Haven Colony Historical Society Papers, iv. 196, 198, 199, 200; Morse's "American Geography," ed. of 1792, p. 433.

bottles of brandy, as part of the regular provision for the guests.[80]

Licentiousness, on its return with Charles II. to England, soon reached the American Colonies. In Cotton Mather's eulogy on Sir William Phipps, written in 1697, he alluded to his chastity as something "which the prodigious depravation brought by the late reigns upon the manners of the nation has made worthy to be mentioned as a virtue somewhat extraordinary." [81]

Americans, sheltered by the republican safeguard of equality of social conditions,[82] never fell in this matter to the European level. The bitterest satirist could not have said that marriage was ever to them what Sophie Arnauld said it became to her countrymen in the eighteenth century, "the sacrament of adultery." Of the Revolutionary soldiers and statesmen, however, who came in close contact with the French, there were many who soon came to share their way of thinking as to female virtue. The shortcomings, in this respect, of a few public men of the day are known to all, at least in part. It is well that it should not be known to all how deep several of them sank in the betrayal of the confidence in which they had been welcomed into hospitable homes.

The factory system opened one of the first new business fields for American women. It also presented an obvious occasion for apprehension as to the effect of the new life on the morals of those who were to share it together.

In many families the daughters had previously worked part of their time at manufacturing processes

[80] Men and Manners in America, i. 42.
[81] Magnalia, i. 200.
[82] De Tocqueville's "Democracy in America," ii., Chap. XI.

in their own houses. Now they were able to spend their whole time in this way, but away from the protection of the household. Towns like Lowell and Lawrence were to be built up, consisting of little but great mills and great boarding-houses, one row for young men and another row for young women. Here was a test of the severest character of the virtue of American girls. They met it well. Several years after one of the large mills of Lowell was set up, the superintendent was able to say that there had been but three instances where a shop-girl had been led astray; and in each such reparation as there could be had been made by marriage.[83]

One class of our working-women has in time past suffered greatly at the hands of American men. I refer to the slaves of the South. Their masters and their masters' sons often used with them more than the license of the mediæval landlord with his tenantry.[84] It was part of the curse of a system that belonged to a past generation; but the laxity of morals which characterized it took hold of its victims, and has gone far through them to infect the whole colored race in the Southern States.

For the purity of woman in America where slavery did not exist, and of the white woman where it did, as well as its correlatives, the promotion of marriage and the sanctity of marriage, we owe much to the teachings of the Roman Catholic Church, to which in all our cities and manufacturing towns so large a portion of our working people now belong.

The factory system, coupled with the swifter movement of life in and radiating from an ever-increasing

[83] Chevalier's "Lettres sur l'Amérique du Nord," i. 397.
[84] Morse's "American Geography," ed. of 1792, p. 65.

number of thickly populated communities, has wrought one unfavorable change in the economic habits of our people. Prudence in family expenditures was once an American virtue. It was every man's ambition to lay up something for old age or to constitute an active capital. This has largely passed away, except in thinly settled agricultural districts. The ordinary workingman owns little besides his household furniture, and saves nothing but what is necessary to pay the dues and assessments of his benefit society. Life insurance and accident insurance serve as the protection of other classes, and absorb what they might otherwise lay up.

Dr. Johnson once said that it was not worth while for ordinary men to struggle to save twenty pounds a year. If they could not put aside enough to raise themselves to a higher situation in life, they had better have the satisfaction of spending all they earned for their own enjoyment. Such was not the opinion of the American of his day, but it is becoming that of the American of ours.

Nor do we all stop at this limit. We are too apt, especially in our cities and villages, to live in debt for the current expenses of our households. We are inclined to spend faster than we earn, and to trust to good luck to square the final account. How many men who work for day's wages, in hiring a house or tenement, consider how the rent is to be met if their employment should unexpectedly cease even for a few weeks in the year? And how many, if they run behind in their account with the landlord, and are turned out of possession, ever think of paying up the arrears, should they subsequently have the means to do so?

Legislation, in this respect, has now been for a cen-

tury and a half mainly on the debtor's side. The process of the courts cannot reach such of his property as is necessary for the comfort of his life, and in some States this exemption may cover a homestead of considerable value. This is partly due to the fact that the debtor class is the more numerous, and casts the heaviest vote; but its deepest causes have been a growing sentiment of humanity, and a higher sense of the worth and dignity of human life.

These have served to protect the criminal from any barbarous punishments, such as were common in England and all her colonies during the first half of American history, and to give him opportunities of reformation. Their reflected influence is also seen in our laws against cruelty to animals, and our charitable foundations for their benefit.

It must, however, be considered an American fault that in many States human life is still held too cheap. This is chiefly true of the South-west and the mining States, where society is still in the rough, and personal altercations common in every class.

The European remedy for an insult—the duel—failed to fasten itself upon America. It was never in vogue in New England. One was fought soon after its first settlement between a couple of negro servants, with swords;[85] and perhaps the unsuitability to their condition of such a mode of settling a quarrel made the ridiculous side of the practice so obvious as to discourage a resort to it by those of a higher station. Only four other instances are reported.[86]

[85] "Observations on Emancipation and Colonization," by Ebenezer Baldwin, p. 32.

[86] Dwight's "Travels in New England and New York," i. 172, 511; iv. 334.

What now has been our morality in dealing with the Indian problem?

The charters of the English colonies generally contained some such phrase as this, in describing the object of the settlement and the purposes to be arrived at in conducting the government: "whereby our said People, Inhabitants there, may be so religiously, peaceably, and civilly governed, as their good Life and orderly Conversation may win and invite the Nations of the Country to the Knowledge and Obedience of the only true God and the Saviour of Mankind and the Christian Faith, which, in our Royal Intentions, and the Adventurers free Profession, is the only and principal End of this Plantation." [87] The seal of that of Massachusetts Bay bore the device of an Indian, with the legend issuing from his mouth, "Come over and help us."

At the first session of the General Assembly of Virginia, in 1619, an Act was passed requiring each settlement to give education and religious instruction to the Indian children;[88] but this was a piece of perfunctory legislation to satisfy the terms of the charter, and no such schools were, in fact, set up. Roman Catholic missionaries in other colonies, particularly those of France, were really the first to introduce Christianity among the natives; and no one can praise too highly the ardor and daring with which they carried on their conscientious and untiring efforts in this direction. Wisconsin has done well in sending a statue of Father Marquette to represent her founders in the galleries of the Capitol at Washington. The Jesuits in Maryland established several stations there for the benefit of the

[87] Connecticut Charter, Poore's "Charters and Constitutions," i. 255; Virginia Charter, *Ibid.*, ii. 1888.

[88] Winsor's "Narrative and Critical History of America," iii. 143.

Indians before 1640, and met with considerable success.[89] Their work later in Maine was frankly recognized by the New England clergy of the time. Dr. Colman, the leading minister of his day in Boston, wrote in 1732 to Father Lauvariat, then laboring among the Penobscot Indians on Georges River, in the most friendly way, saying that his zeal and assiduity merited the highest praise, and specially commended his endeavors to check the drinking habits, remarking (their correspondence was in Latin), "Barbari sane satis isti sunt, et stupidi, sine Potationibus." [90]

The Plymouth Pilgrims gave some faint impressions of what Christianity was to a few individuals among the Indians; but nothing substantial was, or indeed could be, done until their language had been acquired.

The first Bible printed in America was the Indian Bible of John Eliot of Massachusetts; and soon after 1640 he commenced his active ministry among the natives, in which he soon had followers in Connecticut and associates in his own colony. A law was passed there in 1644 that the County Court in each county should "take care" that the Indians living there should be civilized, and "have power to take order from time to time to have them instructed in the knowledge and worship of God." [91] This was always Eliot's principle of action,—to civilize first and Christianize afterward. By 1687 there were twenty-four Indian churches in Massachusetts, and as many native preachers.[92] The Dutch also organized an Indian church near Albany in 1694.[93]

[89] *Ibid.*, iii. 531.
[90] Colman's "Life and Parables," p. 65.
[91] Palfrey's History of New England, ii. 188.
[92] Mather's "Magnalia," i. 509.
[93] *Ibid.*, ii. 882.

The Indians did not take very kindly to the Calvinistic theology which was fed out to them.

One of the first doctrines brought forward was that of the lost estate of mankind, and the certainty of eternal condemnation to those who were not saved through baptism and faith in Christ. "How can this be true," was the reply, "when you have been among us for twenty-six summers without ever before saying a word of it?" [94]

A still sharper reply came from the Conestoga Indians, upon whom a Swedish missionary urged the same teachings in 1710. "Your Bible," said one of the chiefs, "contains a revelation only for those who have it; and the Almighty cannot have concealed these truths from so many nations, if it had been so important that all should know of them. To argue that he could not have made them known in any other way than by this one book is to contradict his omnipotence; and, if that be granted, not to communicate them to all men would be an inconceivable injustice." [95]

Dr. Johnson, always unfriendly to the Americans, did not fail to make his caustic comment upon their seeming tardiness of missionary zeal.

"To omit," he wrote in 1766, "for a year or for a day the most efficacious method of advancing Christianity, in compliance with any purposes that terminate on this side of the grave, is a crime of which I know not that the world has yet had an example, except in the practice of the planters of America, a race of mortals whom, I suppose, no other man wishes to resemble." [96]

The slight attention which the colonists gave to the

[94] Mazzei's "Recherches," iii. 166.
[95] *Ibid.*, iii. 168.
[96] Boswell's Life, II. p. 112.

instruction of the natives, either in the arts of civilized society or the truths of religion, was largely attributable to the traits of the Indian character. They had their own ideals, and they preferred to adhere to them.

A few were educated at the North during the first century of the English settlements, but to little profit. In 1744 the Colony of Virginia concluded a treaty at Lancaster with the Six Nations. The commissioners during the negotiations stated that there was a fund for the education of Indian youth at the College of William and Mary, and that, if the chiefs would send six boys there, the State would see that they were well instructed in all the sciences known to the white man. In accordance with Indian custom an answer to this proposition was deferred until the following day. The Indian orator then thanked them for their friendly offer, but said that no two races of men had quite the same ideas as to the same things. "Many of our sons," he continued, "have been in former years educated at Northern colleges; but, when they returned to us, they were bad runners, they could not bear cold and hunger, they could not build a wigwam or kill an enemy, they spoke our language ill,—in a word, they were good for nothing, either as warriors, hunters, or at the council fire. We appreciate your kind intentions, though we cannot avail ourselves of your goodness; and, to prove it, if you will send us twice the number you mention of yours sons, we will spare no pains to rear them well, to teach them all we know, and to return them men." [97]

It is also true that Indian sagacity was not slow to discover that the ethical teachings and practice of the

[97] Mazzei's "Recherches," iii. 173; Franklin's Works, ii. 462.

Christian missionary were not always on the highest plane.

One of those sent by the French, whose field was in the interior, kept a journal containing cases of conscience which had been referred to him by his converts, and the advice which he had thought it proper to give. One was "whether an Indian stealing a hatchet from a Dutchman be bound to make restitution." The Dutch claim to New York, you will recollect, was not relished by France any more than by England. The determination was "that, if the Dutchman be one that has used any trade with other Indians, the thief is not bound to any restitution; for it is certain he gains more by such a trade than the value of many hatchets in a year." [98]

The story may be matched by one which Cotton Mather relates of an Indian executed in Massachusetts for murder in 1694. The minister who was called in to prepare him for his end found that he knew little or nothing of the principles of Christianity. "How is this?" he asked. "It was preached where you live." "Yes," replied the poor fellow; "and I began to go to hear the missionary, but gave it up when I observed how he lived himself. He minded his bottle more than his Bible; and, when his rum was in him, he would quarrel with everybody."

The drinking habits of the early colonists, and the fire-water which they gave or sold to the natives, were, indeed, more than a set-off against any help they gave them in the direction of civilization, or, it is to be feared, of knowledge of religious truth.

I do not think that the Americans, as a people, can fairly be charged with any lack of morality in their gen-

[98] Mather's "Magnalia," i. 522.

eral course of dealing with the Indians, from the beginning to this day. They bought their land instead of seizing it, they offered them education, they built them churches. They were the stronger and the wiser, and the weaker race has fallen away before them. That was inevitable. When struck at, they struck back, and struck to kill and destroy; and that, too, was inevitable. The Indian was not made for civilization. It is unfriendly to some of his noblest traits. His life, to be true, must be free and unconfined,—a life of the woods. His race must pass, as the beasts of prey whom his ancestors once hunted here have passed.

There have been many, too many, occasions in which Indians have been cheated, abused, and betrayed by white men,—a few in which such acts have been chargeable against the government of a State or of the United States. Our national dealings with them have been described by an earnest and brilliant writer in a volume which she named a "Century of Dishonor." But the wrongs she tells of are largely seeming rather than real, unwitting rather than premeditated. As a people, we have meant well by them; and, generally, we have done well by them.

Would that we could say the same of our dealings with the negro!

Tobacco is probably responsible for the introduction of slavery.[99] Its cultivation was first attempted systematically in Virginia in 1612, and soon became its main industry. Cheap labor was wanted to make it profitable, and that seemed cheapest which could be bought at £20 a head. The first lot purchased came

[99] Winsor's "Narrative and Critical History of America," iii. 139.

from a Dutch man-of-war in 1619,[100] and the next from a Bristol trader.

We must not forget that not only was the slave-trade a lawful one by the law of nations throughout the eighteenth century, but that it had in times not very remote been held in honor. John Hawkins, one of the Elizabethan captains of the sea, who had prosecuted it with great success, won from the queen in recognition of these services, and proudly used, a coat-of-arms the crest of which was a "negro's head, proper, chained." [101]

It was, however, in the next century, felt in Virginia to be tainted with inhumanity. Repeated acts of her legislature were passed to discourage it,[102] and shortly before the Revolution one was adopted to prohibit it altogether. The Royal Governor refused his assent, under instructions from the home government. The House of Burgesses then, in 1772, unanimously adopted a formal address to George III., setting forth the inhumanity of the slave-trade, and that it greatly retarded the settlement of the Colonies with more useful inhabitants, and asking that the Governor be left free to act as he thought best in the matter. The appeal was fruitless; and in the first draft of the Declaration of Independence Jefferson included a summing-up of these proceedings as one of the grievances which warranted the Revolution, though it was finally struck out, lest it should be a cause of disagreement between the delegates.

This action of the English government was dictated by a desire to promote the interests of the African Company, one of the few chartered trading companies of that day, and in which several men of rank and influence

[100] *Ibid.*, 143.
[101] Motley's History of the United Netherlands, ii. 101.
[102] Mazzei's "Recherches sur les États-Unis," ii. 14, note.

had large pecuniary interests, the Duke of Chandos being for some years at its head. England forced the slave-trade upon America in the eighteenth century, just as in the nineteenth she forced the opium trade upon China. Both were profitable to English merchants, and that was enough. It is a matter of satisfaction that the standards of English diplomacy have now been advanced so far that one is startled to read of this Chinese incident as belonging to the Victorian age.

Georgia was for a time more fortunate than Virginia. A regulation of her trustees, made in 1734, received the assent of Parliament, which prohibited the importation either of slaves or ardent spirits. It was, however, repealed within twenty years, and with the approval of George Whitefield, the great missionary preacher of the day, who maintained that it was a humane thing to bring the heathen here where they could be civilized and Christianized.[103]

One of the earliest and most daring resolutions of the Continental Congress, preceding by some months the Declaration of Independence, was that "no slaves be imported into any of the Thirteen United Colonies." [104] An anonymous appeal was soon afterward presented to them through the press, commending this action, and urging that consistency required them to go forward and ask the States to take action toward abolishing slavery itself. This was contained in a spirited address, supported by a "Dialogue concerning the Slavery of the African," both of which were published at Norwich, Connecticut, early in 1776.

A warm address to all the inhabitants of the British

[103] Winsor's "Narrative and Critical History of America," v. 387.
[104] American Archives, 1776, iii. 11.

colonies on the sin of "slave-keeping" had been published anonymously in New York in 1773. "Ye advocates for American liberty," it said, "rouse up, and espouse the cause of Humanity and general Liberty. . . . Ye ministers of the Gospel, . . . in vain will you command your flocks to offer up the incense of faith and charity, while they continue to mingle the sweat and blood of negro slaves with their sacrifices. . . . Put them in mind of the rod which was held over them a few years ago in the Stamp and Revenue Acts. Remember that national crimes require national punishments; and, without declaring what punishment awakes this evil, you may venture to assure them that it cannot pass with impunity, unless God shall cease to be just and merciful."

Jefferson was imbued with the same ideas. Virginia had abolished the slave-trade almost as soon as she asserted her independence. In 1777 he proposed, but failed to carry, in the Virginia legislature a plan of gradual emancipation. In his "Notes on Virginia," [105] he wrote in the same spirit and without reserve; "I tremble," he said, "for my country, when I reflect that God is just"; and, looking forward to the chance of a servile insurrection, he added, "The Almighty has no attribute which can take side with us in such a contest."

There had been, in the first half of the eighteenth century, two such insurrections in South Carolina,[106] and as many in New York. During one of the later, and after its close (in 1741), a hundred negroes were arrested for complicity in it; and prosecutions followed, result-

[105] Pages 129, 237.
[106] Holmes's "American Annals," ii. 1, 25, 146.

ing in burning thirteen of them alive in the city of New York and hanging eighteen more.[107]

The negro at the North had been, with rare exceptions, humanely treated.[108] He was better fed and housed than a quarter of the whites.[109] No instances are reported of extreme barbarity such as even then occasionally disgraced the South. General public sentiment in both sections of the country alike accepted the morality of slavery down to about the era of the New York insurrections and executions. These, followed by the free spirit of inquiry which preceded and accompanied the Revolution, upsetting, as it did, many theories previously accepted both in government and religion. began to open the eyes of the Northern leaders of public thought. The fall of Calvinism as a living belief precipitated the fall of Northern slavery. The only moral argument in its favor perished when men ceased to feel that the unbaptized and unconverted heathen were inexorably predestined to pass at death into eternal misery among lost souls.

The slave-trade had been largely conducted in Northern ships. Dr. Samuel Hopkins was one of the first to attack it where it was strongest. Coming in 1770 to Newport, where it formed a principal branch of the traffic of the place,[110] he preached against its iniquity with all the boldness and power that characterized his singular philosophy of Christian doctrine; and in 1774 the Assembly of that State passed an act for its prohibition, so far as her own markets were concerned.

[107] Wendell Phillips's "Review of Webster's Seventh of March Speech," p. 20, note; Winsor's "Narrative and Critical History of America," v. 201.
[108] Letters of an American Farmer, pp. 146, 154.
[109] Rev. Dr. Dana's "Discourse on the African Slave-trade," 1790, p. 31.
[110] Channing's Lenox Address of 1842, on "Emancipation in the West Indies."

In Massachusetts the courts came to the negroes' aid in 1783, and held that the sonorous words of her constitution, proclaiming that all men are born free and equal and with an inalienable right to liberty, meant all men, and had of themselves put an end to slavery upon her soil. The other Northern States, in steady though slow succession, passed laws of gradual emancipation. So late, however, as the census of 1790, New York had nearly as many slaves as Georgia, and New Jersey as Kentucky.

The South had strong reasons for hesitating to initiate the policy of emancipation. On the moral side, her churches generally adhered still to the older theology, and regarded slavery as a means of salvation from hell. On the sentimental side, they felt with justice that most masters treated their slaves with humanity. On the business side, they saw that emancipation meant an immense pecuniary loss to a large class of the community. On the political side, they dreaded the creation of so overwhelming a body of freemen out of a race totally unused to self-control or independent industry.

What Lieber called the "associative spirit" of the Anglo-Saxon has thrown the expression of American sentiments upon moral questions largely into the hands of societies and corporations. Some of them are purely of a benevolent nature; others put benevolence and business together.

Among the first of these was the Charitable Irish Society of Boston, founded in 1737, and that for promoting Industry and Frugality, organized there twelve years later.[111] In 1774 the Pennsylvania Abolition So-

[111] Holmes's "American Annuals," ii. 180. See Dwight's "Travels in New England and New York," iv. 390.

ciety began the anti-slavery crusade. Early in the nineteenth century, several societies were organized in New England to promote a higher standard of popular morals. In Connecticut there was a State association of this kind, known as the Connecticut Society for the Promotion of Good Morals, which had a large and influential membership. In Portland, Maine, there was a local "Moral Society." One great object was like that of the Law and Order Leagues of the present day, to secure the faithful execution of the laws already existing for the protection of morals. Another was to advocate more stringent ones. In both a marked degree of success was soon attained, particularly in lessening the drink traffic.[112]

Associations like these are the work of men of ardent convictions and strong public spirit, animated by an earnest love for their country and their fellow-citizens. But such men are enthusiasts, and enthusiasm is not always wise or wisely directed. Every such association also has the inherent vice of irresponsibility. Their action—necessarily taken at brief and occasional meetings—is always inconsiderate, unless dominated and dictated by a few leaders who have agreed in advance how far it is safe to go, and are strong enough to enforce their decision upon their followers. "Truth," Dr. Bushnell once said, "is nowhere so loosely held or badly stated as you will find it in the resolutions of societies."

The same vice inheres in the mutual aid organizations and granges which have come to embrace so large a portion of our population. They have their policies not always well matured, and they speak for all their members.

[112] Sermon before the Connecticut Society, Oct. 16, 1816, by Rev. Noah Porter, p. 21.

The associative spirit has linked itself with the new economic conditions of the century aggregating labor under the command of aggregated capital; and the industrial changes thus occasioned have had far-reaching effects upon the morals of the people. We have had a new thing to reckon with,—morals in the factory.

The history of not a few of our States has been that of the transition of an agricultural people, scattered over small farms, to a manufacturing people, clustered in great towns. Such a process is always attended by great dangers, and with us these were doubled by the rapidity with which it has been accomplished.

It is necessarily a triumph of Collectivism over Individualism. It tends to lessen the sentiment of personal dignity, of self-reliance, of independence. It constitutes a society with fewer masters and more servants. It drives men, under the forces of steam and electricity, into becoming fellow-laborers with machines more powerful and skilful than they, which measure out to each his work with a stern, unerring, inflexible monotony, which cannot but carry to the human toiler a certain feeling of subjection and depression.

It was one of the early sayings of Carlyle that loyalty was the highest principle that unfolds itself in human nature, in a temporal and secular point of view; for it is the only enduring basis of civil society. He defined it as a feeling whereby those who are worthy are reverenced by those who are capable of reverence.[113]

The moral tone of a nation is ordinarily high, if among a people of intelligence their civil rulers are their heroes. This is only possible where public opinion is simple, wholesome, generous, trustful. Washington

[113] History of Literature, p. 70.

was more deeply reverenced as President than he ever was as commander-in-chief of the army of the Revolution. Jefferson came next to him in the hearts of the people. They never forgot who wrote the Declaration of Independence. They felt that he believed in them. The third and last who has filled such a place in our country was Abraham Lincoln.

The people, the whole people, cannot quickly apprehend the hearings of any complicated political problem. Their judgment is a woman's judgment,—apt to be right, but not because it has been reasoned out.

For this cause, if for no other, the citizen of a popular government owes it to his country, as a moral duty, to show respect, not only to the law, but to the makers of the law. They are probably better informed than he as to the circumstances that seemed to call for any action that he may be disposed to censure. He ought to give them the benefit of every presumption that they are acting honestly, at least, before he condemns.

Governor Pott, of Virginia, was tried and convicted for cattle-stealing in 1630, four months after he was out of office.[114]

Chief Justice More, of Pennsylvania, was impeached for gross partiality in 1684, and the council requested by the Assembly to remove him from office, the speaker describing him as a "corrupt minister of State." [115]

Sir William Keith, governor of the same province early in the next century, is one of the figures that Franklin has embalmed for us in his matchless autobiography. What American governor of our day could have descended so low as to send a young printer, al-

[114] Winsor's History of America, iii. 146.
[115] *Ibid.*

most a boy, out to London, to secure an outfit on which to set up a printing-office for himself, by promising him a letter of credit for the cost, when he had no credit to give, and no intention of even so much as furnishing the letter?

A few years later we find in the journals of the House of Representatives of Massachusetts complaints that the officers in the colony militia, from the highest to the lowest, abused their position to make illegal charges and demand improper perquisites, extorting a commission from their men for giving them their pay, taking money for their discharge, and making false muster rolls.[116] Positions in the army were sought by those who wished to make the most of these opportunities. General Warren, who was president of the Provincial Congress of Massachusetts in 1775, often said that he never till then had any idea or suspicion of the selfishness of his countrymen or their impatient eagerness for commissions.[117]

In 1770 a report to the North Carolina legislature showed the sheriffs in different counties to be defaulters to the amount in all of nearly £50,000.[118] In 1795 the whole legislature of Georgia united in selling to themselves, for half a million dollars, what now constitutes half of the two States of Alabama and Mississippi. I say to themselves; for, while the contracts were made with four great companies, every member of the legislature, with a single exception, shared in the stock of one or more of them.[119]

John Adams wrote to a friend in 1777, while a mem-

[116] Douglass's Summary, ii. 500, note.
[117] John Adams's Life and Works, ix. 633.
[118] Annual Report of American Historical Association for 1894, p. 152.
[119] *Ibid.* 1891, p. 173.

ber of the Continental Congress, that whoever knew America knew that she entered on the Revolutionary struggle "infected with that selfishness, corruption, and venality (so unfriendly to the new governments she must assume) which have been the bane of Great Britain.[120] In his old age, under the same convictions, he told a young friend in Congress, who sought his advice as one of the fathers of the republic, that the fathers were no better than their sons. "We had," he said, "as many poor creatures and selfish beings in proportion among us as you have among you; nor were there then more enlightened men, or in greater number in proportion, than there are now." [121]

Aaron Burr, one of our early Vice-Presidents, if not guilty of treason, certainly came but little short of it. Another was a notorious drunkard.

A Kentucky judge, while Spain still held New Orleans, was found to have been her pensioner and spy.

Washington's first seat in the Virginia Legislature was gained by the distribution of unlimited punch.[122] Many an election in every State has been secured by promises of political favors or understandings that were tantamount to a pledge. But the downright payment of money or money's worth has always been confined within narrow bounds, and generally gilded over by the pretence of paying for the time lost from labor in going to the polls. What of this there is we find in the country more than in the city. The light kills it, and the city is the place of light.

We have encountered in full force the problem with which all thinking peoples have to deal,—that of the

[120] Life and Works, ix. 458.
[121] *Ibid.*, 630.
[122] Ford's "True George Washington," p. 297.

duty of public characters of whom is required adhesion to ancient declarations of belief or rules of conduct which they are unable to accept, or to accept in the sense in which they were originally framed and promulgated. The augurs of Rome, who did not pretend to veil from each other their contempt for the ignoble search they professed to make for divine oracles in the carcass of a slaughtered fowl, the mediæval priest, at the same eternal city, by the side of Luther at the mass, who muttered, "Panis es, Panis manebis,"—have these men not had their lineal successors in American pulpits?

Our conditions of society, however, have furnished an easy method of escape. The minister of one denomination can readily pass into a minister of another, and with little or no loss of social caste.

The doctrine, too, of creed subscription for substance of doctrine finds wider and wider acceptance. There are, happily, few extended and systematic articles of belief, that have obtained ecclesiastical sanction in any English-speaking lands, which have not been the fruit of compromise, and do not bear the evidence of it on their face.

The Thirty-nine Articles of the Church of England can hardly be said to be fully consistent with themselves. They were pronounced in the century which followed their adoption by an English priest, who afterward became a bishop, mere "articles of peace," subscription to which simply meant that you would not preach against any of the doctrines which they affirmed.[123]

The foundation creed of Andover Theological Seminary declares that God of his mere good pleasure from all eternity elected some to everlasting life, but that

[123] The Bishop of Ely.

the wicked will "with devils be plunged into the lake that burneth with fire and brimstone forever and ever." But it declares also that the Saviour came to make atonement for the sins of all men, and, in thus stating two apparently inconsistent doctrines, necessarily leaves to the professors, who are bound to accept it, to choose between them, or to reconcile them with each other, as their judgment may best approve.

Goethe has said human history has no other theme than the varying contest between the principles of belief and unbelief. When belief—the belief of the heart in the things of the heart—is in the ascendant, the age is marked by great, soul-stirring events, worthy of perpetual remembrance. An age of unbelief succeeds, and it is unproductive and intrinsically mean: it has nothing to feed the spirit of man, which starves itself away in ignoble silence and atrophy.

There was a day when belief was the spring of action for the dwellers on this continent,—for those who came here to found homes for themselves and their posterity. Goethe has described it for us. Narrow as was their field, few as were their numbers, they dealt in things that were essentially great; and they dealt with them in a great way. We stand with reverence at Plymouth Rock. We read with a respect unabated by a conviction of its intrinsic error the story of the covenant which founded the colony of New Haven upon its seven pillars. In the century that followed we see belief in the civil rights of Englishmen rising into belief in the inalienable rights of man, and flashing out, with the gleam of the sword taken from its scabbard, into the glories of the Revolution.

But have these heroic eras in our history been distinguished for moral excellence?

What is morality? If it be conformity to the standards of conduct prescribed by what for the time being is the ruling sentiment of the community, the age of the Puritans was moral; but it was not so with that of the Revolution or of the Civil War.

War, at its best, lifts the soul above selfishness, but not toward God. God is Love. War is the destruction of man by man, the innocent with the guilty. You recollect what General Sherman said of it a generation ago,—"War is hell." Its profoundest history is not written in battles and treaties. Those who fight are in the foreground of the picture, lit up by the glare of the contest; but what are those figures in the background? What of the greater army of camp-followers and contractors, of speculators in loans, of defaulters in office and defaulters in trade? The sutler may cut a mark on national character deeper than the general.

Belief may rest on faith, it may rest on imagination, it may rest on knowledge. Napoleon said, "C'est l'imagination qui gouverne le genre humain." It does not govern all the beliefs that rule American life. We reason out our conclusions, except as we inherit them. Imagination may occasionally hurry us into acts of enthusiasm. Our settled habits and modes of thought are regulated by higher things.

"I have generally," says Carlyle, "found that morals in a man are the counterpart of the intellect that is in him."[124]

The best educated, the most intelligent people should be the most moral people. There are countries where

[124] History of Literature, p. 158.

individual men have gone farther in learning and in intellectual greatness than any American has yet reached, but there are none where illiteracy is so rare. I do not ignore that of the American negro. It has not been his fault. It will not long be his misfortune. But, when when we speak of American morals, we do not count the colored men of the South as Americans. They will win the name, but they have not yet made out their title.

The morals of our people reflect their intellectual ability, but we must look deeper for their source and spring. As we review their course, we cannot but see that it has been largely shaped by religious influences, and especially by those under which New England was originally settled.

Virginia was the pioneer in representative government. It set the style of morals also in their early days for most of the Southern States west of the Alleghanies. But it was a morality either for the rich or for the frontiersman, and always a morality from the slaveholder. It wanted that support which Carlyle named as so essential. Sir William Berkeley, her governor for forty years, expressed the views of her ruling class when he wrote of her condition in 1671 to the Lords of the Committee of the Colonies, "I thank God there are no free schools nor printing." [125] That which in America as a whole belongs to the small farmer working with his own hands, to the village tradesman, to the factory mechanic, to the thickly settled and established community, be it North or South, comes down from John Calvin and John Knox through the Plymouth Separatist, the Massachusetts Puritan, the Scotch Presbyterian, and the Huguenot.

[125] Holmes, "American Annals," i. 410.

The sternness of the Puritan theology time has softened. The rigor with which it clad human life has worn away. But the strong sense of personal duty which it imposed, and the reverence for the Bible which it taught so well, remain.

Sunday is a day of rest and quiet for most of our people because of the Puritan. They may care nothing for its religious sanction, but they have inherited it from those who did.

Licentiousness, intemperance, gambling, brutality in sport, impatience of law, contempt of authority,—if these are not destructive features of American society, it is in no small part because of the share of New England in planting the great States that lie west of the Hudson, and of the leaven of Calvinism that the Presbyterian and the Huguenot of the Carolinas introduced into the South.

Three nations of antiquity, above all others, have stamped themselves upon the modern world: Greece, in thought; Rome, in law; Israel, in religion.

It is fortunate for America that the founders drew less from Greece than from Rome, less from the Romans than from the Hebrew. From everything that was Greek their theology repelled them, founded as that was in the Latin Church, cast by Calvin in Latin form, and permeated by no sense of beauty except the beauty of holiness. The governing and conquering spirit of Rome they had; and the Hebrew Scriptures gave them the Lord God Jehovah for their leader, and told them, by the lips of Moses, that law and religion were one. They may have thought the lesson was that State and Church were one, but the vital truth outlasted their misconception of it.

If American morality is sound and high, it is for one thing, and for the main thing, because it rests on Plymouth Rock.

* * * * *

The first generation of the settlers of Connecticut thought not a little of the subject of giving the Indians higher education if it proved possible. The Indian, however, was too lazy to learn. It was a refreshing novelty for one of the Connecticut clergy to set up a school primarily for Indians. The feeble beginnings of Dartmouth College are graphically described in the letter given below.

In 1766 Jared Ingersoll, in this letter, written in the summer of that year, gives a forcible statement of the missionary efforts of the good people of New England in support of Indian education.

D^{r} Sr,

This waits on you solely on the Subject of the Indian benefaction which you was so good as to mention to me when last with you. Enquiry has been made into the State of the Indians near Kent in this Colony. They appear to be under the care of a Moravian Teacher, & from some Connections formed between them and that Interest, I find whatever monies shall be supplied to their benefit must be under the direction of the Moravian benefactors; so that our Clergy do not seem to be inclined at present to solicit your bounty (?) for them. As to those of the Mohegan Tribe near Norwich I have not as yet been able to learn any thing particular about them. The state of this country of late you will easily conceive has very much retarded Enquiries of this kind, & indeed, Every kind of business.

The Rev^{d} M^{r}. Eleaz^{r}. Wheelock, Minister of a Parish in Lebanon in this Colony, has been for some time Engaged in a plan of Gospelizing the Indian Natives upon our Western frontier and Elsewhere. This he does by getting the Youth of those tribes to come & be educated at a School he has set up for that End at Lebanon afores^{d} when properly Instructed and qualifyed

he sends them out among those people as Preachers & some I believe as School-masters. Some English instructors are also sent among them. In this way tis generally thought this Gentleman has had real Success. He is well known & among all denominations among us is reputed to be a person of unspotted Caracter, truly Zealous & most heartily Engaged in this Cause, and has so recommended the same that it has been & now is patronized by a Society in Scotland, I think—the name of which I have forgot—& is also favourably thought of & helpt in some little degree, according to their ability, by the people of this Colony. This being the Case, Mr. Wheelock, as well as other Gentlemen, think it would be happy & most for that Interest which the institution of your Society was intended to Answer, for the benefaction which you mentioned to me to be Extended to this School. Mr Whitaker, a Clergyman belonging to Norwich in this Colony & Connected with this School, is now in England with an Indian Preacher Educated by Mr. Wheelock, to whom & to Mr Wheelock, both of whose Veracity you may Rely upon, I must Refer you for many particulars which I am not fully acquainted with, both with relation to the plan of this Institution & the Execution of it, & will only add that as things appear to me, the Extending the Charity to this School will most likely answer great & very valuable purposes, & as great & as valuable ones as any that may be Expected from an Application of it to any other School or plan of Instruction of the kind, in these parts.

I am Sr
Yr most Obt &c
J. I.

To R. Jackson Es qr.[126]

It is evident from this letter that the ministers were not united in the scheme of instruction for the Indians, and this was set up as a reason why the Connecticut clergy were not joining in this charitable work. Mr. Ingersoll did not think much of this excuse, and believed that nothing could be more advantageous for the Indian youth than to have the benefit of contributions from the two denominations of Christians.

[126] New Haven Historical Society Papers, ix. 395.

In 1764 a country clergyman in Lebanon Crank opened the school for Indian boys mentioned in the above letter in that parish of Connecticut, which grew to be Dartmouth College.

Rev. Eleazar Wheelock, who conducted it, after a few years removed it to Hanover, New Hampshire, where the classes soon numbered twenty. Hanover was then a rough village composed of a few log cabins.

A lad of fifteen, to whom Dr. Wheelock offered free tuition, hesitated to accept it. In his diary for 1764 he says:

I considered the proposal, & while I desired an education to qualify me for usefulness, I felt also an oppression that I should not incline to go among the Indians. The idea of wild Indians was an impression on youthful minds at that time of some degree of terror, as they had spread desolation among the English settlements. I got the life of Mr. Sargeant, who laboured for the instruction & salvation of the Housitonic Indians, & was much pleased with the history. I concluded it to be my duty to accept the invitation; & accordingly at the age of 15 years June 1764 I embarked on a coaster amidst the tears & affectionate embraces of my Mother & the blessing of my Father. After about 5 days sail we arrived at New London. . . .

The verdant fields & well cultivated farms on every side afforded a delightful prospect to cheer the gloom of solitude. I arrived at Lebanon Crank, late in the afternoon, & the objects which presented were a number of Indian & English youth playing on the spacious green before Mr. Wheelock's house & the School House. I was kindly and affectionately received by the worthy family. Mr. Wheelock was then on a journey to Boston. Mr. Samuel Kirkland, then a member of New Jersey College, was very kind & attentive to me, & the young gentlemen, members of the school, took so much notice of me as expelled the unpleasant feelings of a stranger, & I seemed to be at home & surrounded with respectful & cordial friends. The second day I entered upon my studies in the school, in the class composed of John McClarren Breed, David Avery, Josiah Dunham & John Hall. Josiah Pomeroy afterwards joined us. Mr. Lothrop had the care of Moor's

School. The school consisted of about 30, one half Indian youths & boys from different tribes & the other half were English, some fitting for missionaries, & others independent preparing for college. . . .

My leisure hours from study were generally spent in copying letters for Mr. Wheelock. Other qualifications of a missionary were thought necessary, such as to lodge hard, & live on plain & wholesome fare. We reposed on Straw Beds in Bunks & generally dined on a boiled dish & an Indian pudding. Mr. Wheelock was laborious in his instructions of his pupils, in the principles of religion. Early in the morning at the blowing of a shell we assembled in the hall of his house a chapter was read by the students, after Mr. Wheelock had presented a short petition to the throne of grace he then expounded some passages or conversed on some doctrines & practical subjects of religion & made a prayer. The same religious service was also performed in the evening, with singing a psalm or hymns in the evening. His discourses were generally awakening, drawn from the justice, holiness & terrors of the law of repentance, faith & holy love & obedience to God on the plan of the Gospel. There were several seasons of serious awakenings among the students, & the people of the society, & of hopeful conversions & a number of both were admitted into the church. Of the latter, myself was one. From a child my conscience was tender and fearful of doing wrong, & I had been in the habit of prayer & attention to the word, & thought I had great pleasure in religious duty. My hope & confidence in former knowledge & experience was however much shaken by Mr. Wheelock. He perceived my anxiety & conversed at times alone with me in his study, & I now humbly hope his instructions were divinely blest. I read the books of pious instruction, the lives of the pious Mr. Halliburton, President Edwards, D. Brainard & others to edification. Mr. Wheelock advised me to join the Church in communion which I did with several of my fellow students, between the ages of 16 & 17 years. In the autumn of 1765 I went to New Haven with three of my fellow students & was examined & admitted into the Freshman Class at Yale College then under the presidenct of the Rev. Mr. Clapp. My class recited to the president during the first winter. He was eminent in mathematics & philosophical science & esteemed a good scholar in universal learning. He was plain & simple in his manners & in his dress & address. His government partook rather of austerity than mildness, & age

probably had made him less indulgent to the foibles of his pupils. He was severe against those who had once offended & easily imposed on by those who were disposed to conciliate his good will or flatter him. In the Spring of the Year the prejudices of the scholars ran to such a height that a petition to the Corporation for his dismission was signed by all the classes. The Corporation met & the president resigned his office. He died the next year. His death was supposed by many to have been hastened by the mortification of a resignation & by relinquishing the regular and uniform habits which he had pursued through the long period of his presidency.[127]

The close connection of Dartmouth and Yale, and Connecticut with New Hampshire, in founding this new college in 1764 is plainly delineated in the diary of this collegian. It was fruitful in results, and constitutes one of the most important milestones in Colonial history.

Occasionally some special provision was made by the General Court for the education of particular Indians named. The following is an instance:

Upon the prayer of Atchetoset, an Indian native, representing to this Assembly that himself and family do desire to be instructed in the christian religion, and that his children may be taught to read, and that thereby they may with greater ease understand the principles of said religion; and further setting forth, that he is unable to be at the costs of schooling his children and for sustaining them with food at the same time; and thereupon praying for some relief from this Assembly: Whereupon this Assembly do desire his Honour the Governor to encourage the said Atchetosett in his good purposes; and accordingly that his Honour direct and appoint the Reverend Mr. Anthony Stoddard and Lt. Colonel Preston, to take care that the said Indian be instructed according to his desire, and that his children be schooled and taught the principles of the christian religion, and victualled; and that twenty pounds of the money raised by contribution and in the hands of Nathaniel Stanly, Esq^{r}, be improved in the said service; and that his Honour be desired to inform the said Mr. Stoddard and Lt. Colonel Preston thereof, that they may be forward with the

[127] Diary of David McClure, 5–9.

affair; and that upon due proof that the said persons appointed as abovesaid have gone forward in the said affair, that the Governor be desired to send the said sum (or so much thereof as may be then expended) to them, that such charge may be defrayed.[128]

By the aid of the Society for propagating the Gospel in Foreign Parts a catechism in one of the Indian dialects was composed by the Rev. Abraham Pierson and finally published in 1658. The author was a scholar and wrote as a scholar for scholars. The Indian words were in one line, and the English words were in the line next above. It presented to them a series of theological puzzles which few scholars could understand. For example:

Q. Are there many Gods? or is there but one true God?
An. There are not many Gods, there is only one true God.
Q. How do you prove that there is but one true God?
An. Because the reason why singular things of the same kind are multiplied is not to be found in the nature of God; for the reason why such like things are multiplied is from the fruitfulness of their causes: but God hath no cause of his being but is of himself therefore he is one.
2. Because singular things of the same kind when they are multiplyed, are differenced among themselves by their singular propertyes; but there cannot be found another God differenced from this by any such like propertyes.
3. Because its proper to God to do whatsoever he willeth; if there were many Gods they might will contrary things and one might be hindered by another for y^{t} he could not do what he would, which cannot stand with the Omnipotency and nature of God.[129]

In 1667 the General Court passed the following vote:

Whereas this Court haue been informed that Vncass and Owanecoe with some of their people are perswaded to be willing

[128] Colonial Records of Connecticut, 1735–1743, 372, 373.
[129] Connecticut Historical Collections, Vol. III, pp. 11, 12.

to giue attendance to what of the knowledg of the onely true God and o[r] Sauiour Jesus Christ is discouered to them by the Reuerend Mr. James Fitch &c. This Court thought good hereby to declare that Mr. Fitch's endeauours to conuey something of the knowledge of God and the light of his Gospell to those poore heathen that haue so long satt in darkness and the shaddow of death, is gratefully accepted by this Court, who shall be ready to encourage Mr. Fitch in the worke and moue the Com[rs] at their next meeting to alowe suitable encouragement allso. This Court doth likewise declare to all those people, both Sachems and others, that readily and willingly attend to those discoueries of the things of God that are held forth to them, they shall be ready to encourage them therein, as allso looke with an unpleaseinge countenance upon those that shall any wayes interupt or hinder them in their due attendance to what God shall be made knowe to them.[130]

John Adams wrote to James Warren in July, 1775,

This Forenoon has been spent in an Examination of a Mr Kirkwood, a worthy Missionary among the Oneida Indians. He was very usefull last Winter among all the Six Nations, by interpreting and explaining the Proceedings of the Continental Congress and by representing the Union and Power of the Colonies as well as the Nature of the Dispute.[131]

In Connecticut the business of the churches was carried on by ecclesiastical societies. In the middle of the eighteenth century the statutes decreed that schools were to be maintained by and in ecclesiastical societies of seventy members, or what were commonly called "school societies." The schools were not to be kept open unless it was voted by the society, and unless the society had seventy members at least. The vacations were to be in all one month each year.[132]

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[130] Colonial Records of Connecticut, 1665–1677, 157, 158.
[131] Warren-Adams Letters, Vol. I, 1743–1777, 79.
[132] Statutes of Conn., Rev. Ed. 1750, p. 212.

One of the first subjects of general concern which the people of Connecticut took into serious consideration was higher education. One of the ultimate results was the organization of Harvard College.

Cotton Mather, whose father became its President, has given in his Magnalia, a quaint history of its first beginnings. It was "a river, without the streams whereof, these regions would have been meer unwatered places, for the devil!"

He continues thus:

America is the part of the world whereto our history is confined; and one little part of America, where the first academy that ever adorned any English plantation in America was erected; and an academy, which if majores nostri academias signato vocabulo appellavere Universitates, quod Universarum Divinarum Humanarumq; Rerum Cognitio, in ijs, ut Thesaro conservata aperiatur, it may, though it have otherwise wanted many priviledges, from the very foundation of it pretend unto the name of an University. The primitive Christians were not more prudently careful, to settle schools for the education of persons, to succeed the more immediately inspired ministry of the apostles, and such as had been ordained by the apostles; (and the apostate Julian, truly imagined, that he could not sooner undo christianity, than by putting of them down!) than the Christians in the most early times of New-England were to form a Colledge, wherein a succession of a learned and able ministry might be educated. And, indeed, they foresaw, that without such a provision for a sufficient ministry, the churches of New-England must have been less than a business of one age, and soon have come to nothing: the other hemisphere of the world, would never have sent us over Men enough to have answered our necessities: but without a nursery for such men among ourselves darkness must have soon covered the land, and gross darkness the people. For some little while, indeed, there very hopeful effects of the pains taken by certain particular men of great worth and skill, to bring up some in their own private families, for public services; but much of uncertainty and of inconveniency in this way, was in that little while discovered; and when wise men considered the question

handled by Quintilian, Utilius ne sit domi, atq; intra privatos Parietes studentem continere, an frequentiæ scholarum, et velut publicis præceptoribus tradero? they soon determined it as he did, that set-schools are so necessary, there is no doing without them. Wherefore a Colledge must now be thought upon!

Ten years after the landing of the Pilgrims the people of Massachusetts took a decisive step.

A General Court held at Boston, Sept. 8, 1630, advanced a small sum (and it was then a day of small things,) namely, four hundred pounds, by way of essay towards the building of something to begin a Colledge; and New-Town being the Kiriath Sepher appointed for the seat of it, the name of the town, was for the sake of something now founding here, which might hereafter grow into an University, changed into Cambridge. 'Tis true, the University of Upsal in Sweden, hath ordinarily about seven or eight hundred students belonging to it, which do none of them live collegiately, but board all of them here and there at private houses; nevertheless, the government of New-England, was for having their students brought up in a more collegiate way of living. But that which laid the most significant stone in the foundation, was the last will of Mr. John Harvard, a reverend, and excellent minister of the gospel, who dying at Charlestown, of a consumption, quickly after his arrival here, bequeathed the sum of seven hundred, seventy nine pounds, seventeen shillings and two pence, towards the pious work of building a Colledge, which was now set a foot. A committee then being chosen, to prosecut an affair, so happily commenced, it soon found encouragement from several other benefactors: the other colonies sent some small help to the undertaking, and several particular gentlemen did more, than whole colonies to support and forward it: but because the memorable Mr. John Harvard, led the way by a generosity exceeding the most of them, that followed his name was justly æternized, by its having the name of Harvard Colledge imposed upon it.

On August 27, 1640, the magistrates, with the ministers, of the Colony, chose Mr. Henry Dunstar, to be the President of their new Harvard-Colledge. And in time convenient, the General Court endued the Colledge with a charter, which made it a corporation, consisting of a President, two Fellows, and a Treasurer

to all proper intents and purposes: only with powers reserved unto the Governour, Deputy-Governour, and all the magistrates of the Colony, and the ministers of the six next towns for the time being, to act as overseers, or visitors of the society. The tongues and arts were now taught in the Colledge, and piety was maintained with so laudable a discipline, that many eminent persons went forth from hence, adorned with accomplishments, that rendered them formidable to other parts of the world, as well as to this country, and persons of good quality sent their sons from other parts of the world, for such an education as this country could give unto them. . . .

When scholars had so far profited at the grammar schools, that they could read any classical author into English, and readily make and speak true Latin, and write it in verse as well as prose; and perfectly decline the paradigms of nouns and verbs in the Greek tongue, they were judged capable of admission in Harvard-Colledge; and upon the examination, were accordingly admitted by the President and Fellows; who in testimony thereof signed a copy of the Colledge laws, which the scholars were each of them to transcribe and preserve, as the continual remembrancers of the duties, whereto their priviledges obliged them. While the President inspected the manners of the students thus entertained in the Colledge, and unto his morning and evening prayers in the hall, joined an exposition upon the chapters; which they read out of Hebrew into Greek, from the Old Testament in the morning, and out of English into Greek, from the New Testament in the evening; besides what Sermons he saw cause to preach in publick assemblies on the Lord's day at Cambridge where the students have a particular gallery allotted unto them; the Fellows resident on the place became Tutors, to the several classes, and after they had instructed them in the Hebrew language, led them through all the liberal arts, e're their first four years expired. And in this time, they had their weekly declamations on Fridays in the Colledge-hall, besided publick disputations, which either the Praesident or the fellows moderated. Those who then stood candidates to be graduates, were to attend in the hall for certain hours, on Mondays, and on Tuesdays, three weeks together towards the middle of June, which were called weeks of visitation; so that all comers that pleased might examine their skill in the languages and sciences, which they now pretended unto; and usually, some other of the overseers of the Colledge, would

on purpose visit them, whilst they were thus doing what they called, sitting of solstices: when the commencement arrived, which was formerly the second Tuesday in August, but since, the first Wednesday in July; they that were to proceed Bachelors, held their act publickly in Cambridge; whither the magistrates and ministers, and other gentlemen then came, to put respect upon their exercises; and these exercises were besides an oration usually made by the President, orations both salutory and valedictory, made by some or other of the commencers, wherein all persons and orders of any fashion then present, were addressed with proper complements, and reflections were made on the most remarkable occurrents of the praeceding year; and these orations were made not only in Latin, but sometimes in Greek and in Hebrew also; and some of them were in verse, and even in Greek verse, as well as others in prose. But the main exercises were disputations upon questions, wherein the respondents first made their theses.[133]

In 1725, the poverty of learning in those times, and the respect for college graduates, as a superior class, are indicated by an Act passed by the Assembly:

Upon the memorial of Mr. Nathaniel Clark: This Assembly exempts the said Nath[ll] Clark from training for the future, and the said Nathan[ll] Clark is hereby exempted therefrom accordingly . . .

The petitioner represented that he had been educated at Saybrook and "had obtained the honor of a Diaploma . . . which may be supposed to elevate the gentleman adorned with such a laurel something above the vulgar order;" but that he had been called forth to military and other common employments, which he could not but suppose "a disparaging imposition on the order aforesaid." [134]

[133] Magnalia, 5, 6, 7, 8, 9.
[134] Colonial Records of Connecticut, 1717–1725, 533, and note.

Influential members of American Episcopal churches were planning at this time for the establishment in New York of a new college under Episcopal auspices. The following letter shows the strength of the movement which resulted in the establishment of Columbia College, first called Kings College.

Reverend S. Johnson to the Archbishop of Canterbury.

May it please Your Grace

The bearer hereof is M^r^ Solomon Palmer who having been brought up and graduated at New Haven College, has for several Years, been a dissenting Minister of a very good character and in much esteem but upon occasion of our late Confusions he hath been led to read many of the best Divines of our Church, which has of late convinced him that it is his duty to conform to the church, and now goes well recommended by several of the Clergy of Connecticut to my Lord of London for holy orders in order to be incumbent to several adjacent places in the County of Litchfield in that Colony, where his late parish is, and where there are many people that earnestly desire he may be settled among them. And though they are most of them, but poor new planters, they have engaged 30 pounds sterling p^r^ an. which he hath accepted as a Title for his Ordination, and whisch I hope my Lord of London will accept of as he does no(t) go with any dependence on any Salary from the Society. Nevertheless, as this will be but a very slender support for a family of seven Children, he is also recommended to the Society; and I shall be very thoughtfull for your Grace's influence, if it may be, that he may have a small pension allowed him in addition to it.

On this occasion I humbly beg leave to inform Your Grace that the Gentlemen of the City of New York, where I now am, have, for several Years, been projecting to establish a College here, and been raising money for that purpose, and are now resolved speedily to carry it into execution. They have all along been often expressing their design that I should be the Head of their intended College; from which, (upon a visit I made them last fall,) I sincerely endeavoured, to my utmost to dissuade them; notwithstanding which they have since unanimously chosen me to this Office, assuring me that they cannot be agreed on any other

method, and that my refusal would much endanger the miscarriage of their design; and it seems the general persuasion that it is my duty to accept.

However I have this Spring been prevailed upon to spend, at least, some months here, (my neighbouring brethren in the mean time taking turns to do duty for me in my absence;) in which time the Trustees have been projecting a Charter, according to the tenor of which, the service of the Church is to always used in the College, and the President to be always of the Church of England; and it is passed in Council and preparing for the Seals. In consideration of which conditions, the gentlemen of Trinity Church will give a tract of land excellently situated, whereon to build it, with 7 or 8000 pounds,—And it is intended that Your Grace and my Lord of London be first named among the Governors of the College to be incorporated.

Here is indeed a most virulent and active faction of Presbyterians and Freethinkers that do violently oppose such a Charter, and do all they can to disaffect the Dutch, without whom they bear but a small proportion in the province.—But as the Dutch seem generally steady in their union with the Church of England, it is not much doubted that the General Assembly will approve of the Charter: and if they do, I believe I must accept of this Office and settle here, and apply myself to the discharge of it as well as I can.—And I humbly beg an interest in your Grace's prayers in my behalf, of which I shall stand in much need as I am very deficient in proper qualifications for such a business, and especially considering my advanced Years.

I am
May it please Your Grace,
Your Grace's most dutiful son &
most obedient humble Servant
(Signed) Samuel Johnson.[135]

New York, July 10, 1754.

The following letter of Dr. Cutler to the Bishop of Oxford (afterwards Archbishop of Canterbury) shows quite plainly the attitude and beliefs of those advocating the erection of a new college in New York.

[135] Documents relating to the Colonial History of the State of New York, VI, 849.

Mr. Cutler was one of the slender staff of Yale College in this period, and had been very influential in creating a more favorable atmosphere in Connecticut for episcopacy. It was a subject of long and repeated discussion in later years, and caused for a time a serious break in the college faculty, which could ill afford the loss sustained.

Reverend Dr. Cutler to Dr. Secker, Bishop of Oxford.
My Lord

Your very good and condescending letter came to hand July 28. Had any important change risen from the pamphlets I sent your Lordship, I had presumed to lay it before: but I thought it too minute to mention, and my self happy enough in Your Lordship's acceptance; now your Lordship's Command must determine me; who think it my duty to obey, and not dispute. D^{r} Mayhew's Sermon cost 9^{d} sterling. The price of his Election Sermon now enclosed has 5^{s} written on it, and charged by the bookseller and is but equal to 6^{d} sterling. What else I enclosed has unhappily slipped my memory: but the cost was in the same proportion. The whole impression of Hobart's Sermon is now disposed of; nor could I procure a single copy upon any consideration. Some time ago, by great chance, I got one Copy for the Secretary of the Society, and it is now in his hands. It looks odd to us, that Mayhew should be appointed to preach the Election Sermon in that place where the regular teachers of the town, disliking his sentiments in religion, would not take him to bear a part in their weekly lecture: but for this service, he must thank some friends he had in our general Assembly. I understand, my Lord, that some other books, no small Octavos, are now in the press. One is a Vol. of D^{r} Mayhew's sermons. Another is the second Vol. of M^{r} Prince's Chronology of New England. He is justly counted a fanciful, credulous man, of the same spirit, without the boldness of D^{r} Mahew. The 3^{d} is a treatise of M^{r} Jonathan Edwards, a new light, famous both among us and in Scotland, upon the doctrines of Election and Reprobation, which he would place upon the same footing with the H. Scriptures. I have known the man for many years, and think him superior to Mayhew or Prince, a man of much sobriety and gravity, and of more decent language than they; but odd in his principles, haughty and

stiff and morose. There are an hundred subscriptions to the impression, from Scotland. I hesitate about sending these books to Your Lordship, but am ready to observe any hint of your Lordship's pleasure about them.

The good circumstances of the Society are a comfort to us, and give us hope towards the success of our applications to them in behalf of places where churchmen are in a body, but too weak to support that interest of themselves. I say not this to weaken Your Lordship's just remarks on the prudence requisite to conduct the Charity towards us: but am sure that as the wisdom of the Society is on the one hand too great to give an handle to the licentious speech of Dissenters, so it is on the other hand to me controul'd on proper occasions to do good.

Your Lordship's good inclination towards resident bishops among us does highly gratify and oblige us. And if that blessing must yet be suspended, we trust in the wisdom and goodness of our superior to be thoughtful of us in the *interim,* and in God over all to succeed and reward their charitable concerns for us in due time. No wonder the dissenters oppose it: they are consistent in principle and interest. Interest of their cause, I mean, and not of their persons. The truth would brighten and it would be a credit to be a Churchman.

Your Lordship's representation of the state of religion is very melancholy, but comfortably qualified. We share in the unhappiness of the times. There is scarce any bad book that does not cross the water: and but few good ones follow them: nor are our Clergy furnished with learning or leisure to yield antidotes. I acknowledge Your Lordship's great goodness that is disposed to help us in this unhappy state.

The Undeserved kindnesses of the late excellent bishop of Cloyne to me will not suffer me to forget him or his, and your Lordship has much obliged me by the account of his Lady, promising Son, and daughter; and this gives me hopes, that when opportunity serves Your Lordship will present my honourable regards and best wishes to them. Perhaps the lady does not know the death of M^{r} Smibert who was in the Dean's company in his travels in Europe, and came over with him to New England. He was a man of an honest, amiable easy temper, but an inflexible Dissenter.

May God continue Your Lordship for many years as a blessing to the Church: Your Lordship's happiness will be an article in my prayers and joy. I trust for the benefit of Your Lordship's

First State House at Hartford, 1720

First State House at New Haven, 1764

Third State House at Hartford, 1878

Second State House at New Haven, 1830

Second State House at Hartford, 1796

Compassions toward, myself, and my only son now Curate to the Rev[d] Dean of Bocking, and am, as obliged,

Your Lordship's most
thankful and dutiful Son & Servant,
(Signed) Timothy Cutler.[136]

Boston, New England
August 28, 1754

An interesting correspondence took place about the middle of the eighteenth century, between President Ezra Stiles and Dr. Alison, Vice-Provost of the College of Philadelphia, which throws considerable light on the educational history of the Eastern colleges. In 1759 Dr. Alison writes to Dr. Stiles as follows:

I have seen proposals to unite y[e] severall Colleges on this continent, as near as might be, in y[e] same plan of Education, to govern them nearly by y[e] same laws, & to admit none in one college y[t]. were expelled or denyd admittance in another, without previously consulting y[e]. heads of y[e]. college from whence y[e]. student was expelld, &c. This proposal was made by M[r]. President Clap, & deserves a serious consideration. I think that there ought to be more care taken to prepare boys for the College than is now used. Certainly y[e]. desigh of y[e]. founders is not complyd with by preparing boys to recite Virgil, Tully & y[e]. Greek Testament, as it were by Rote, without sufficiently understanding y[e]. Latin & greek Grammars, & being able to write latin & english at least grammatically, if not elegantly. Euclids Elements, & Algebra, at least so much as might enable y[m]. to solve quadratick equations, should be taught y[e] classes statedly & carefully, & Moral Philosophy should be a business of greater care & closer application than is now y[e]. common practice; without this branch of knowledge, we shall be ill able to defend our holy christian religion; to understand y[e]. rights of mankind; or to explain & enforce y[e] duties which we ow to God, our neighbors, & our selves. I would, as a friend to learning, recommend it to you, to engage Gentlemen, & Gospel Ministers of y[e] first rank, & of more enlarged views to engage in this reformation; 'tis a shame that almost every where

[136] Documents relating to the Colonial History of the State of New York, VI, 906–908.

Learning dwindles in Colleges & Universities; & y^{t}. y^{e}. loudest complaints cannot awaken them from their Lethargie. I will count it a favor to receive, & will punctually answer y^{r}. letters, especially while you are active in promoting y^{e} kingdom of x^{t}., or y^{e} cause of Liberty, virtue, or Learning; & am with great respect

Y^{r}. assured Friend & humble Servant
Fra: Alison.

P. S. I am heartily grieved for y^{e}. contentions & divisions that are like to prevail in Connecticut; I highly esteem that church, & people, & had almost determind to make it y^{e}. retreat of my old age; but am vexed that they bite & devour one another. Nothing can be more fatal to their piety, morals, or liberty; they will be swallowed up by the Episcopal church, who envy their prosperity, & will avail themselves of these divisions. You have some Interest with y^{e}. contending parties, & should not be discouraged, but excite y^{m}. to bear, & forbear one another, & to have peace among themselves; persist in endeavors for peace, prevent them from going to extremes, & God will support you, & bless y^{r}. endeavors. I have no interest with any of them, or else I would use it; & would conjure & beseech them to follow y^{e} things y^{t}. make for peace.[137]

* * * * *

Fisher Ames of Massachusetts once said:—

"Constitutions are but paper; society is the substratum of government." Society in this sense is law: it fills gaps; it clarifies. Connecticut statutes have had wide influence in other states.

It was the good fortune of the American colonists that among the settled rules for the construction of an Act of Parliament one was that it should not be deemed to extend to any colony which was not by express terms included in its operation. The only British colonies, at first, were those in this country, and they were left for the most part to the direction of the crown. This was in each case regulated primarily by charter.

[137] Itineraries and Correspondence of Ezra Stiles, 423, 424.

Each of these, whether of the proprietary, provincial, or republican type, was the fundamental law of the jurisdiction, according to which its government was to be organized and administered. Except that it was not self-imposed, and that it was subject to revocation without the consent of those for whom it was made, it answered very nearly to our modern conception of what a Constitution should be, that is, a brief document, laying down a general scheme of political organization, granting large powers of legislation and administration, and imposing a few, and but a few, fundamental restrictions.

Connecticut was so well satisfied with hers, that she retained it, with few modifications, as the foundation of her system of civil government until 1818, and Rhode Island clung to hers for a quarter of a century longer. On the other hand, those charters which reserved a controlling administrative authority to a royal governor or to proprietaries were a constant source of popular discontent.

The supervising power of the crown resided nominally in the King in Council; really a committee of the Council without the King. Certain members of the Privy Council were thus made a standing tribunal, by the name of the Lords of Trade and Plantations. By their authority any Colonial statute could be set aside as unauthorized by the charter, and the judgments of the Colonial courts re-examined and reversed. From 1718 down to the treaty of peace with the United States in 1783 they were provided with a special counsel of their own, besides being entitled to call on the Attorney-General and Solicitor-General for advice.[138]

[138] Chalmers, Opinions of Lawyers, 9, 11.

In one respect this royal prerogative, which was not infrequently exercised, was favorable to the development of American liberty and law. It secured a certain unity of movement in their growth. It produced symmetry of form. It built up a sentiment of common nationality. It promoted the study of legal institutions. It helped to rear an American bar worthy of the name.

A legal question of fundamental importance was as to how far the power of legislation was conferred upon the Colonial assembly. That no such power could be claimed was argued with great force by one of the Connecticut clergy, Rev. Gershom Bulkeley, in an attack upon the government of Connecticut, published in London in 1692.[139]

During the seventeenth century there were no judicial proceedings on this side of the Atlantic which deserves to be remembered as legal precedents. The only considerable courts were the General Courts, that is, the legislative assemblies, or the Governor and Council. Occasionally a few lawyers were imported for public use,[140] but there was seldom much need to consult them in the course of a trial. The questions were simple and the justice rude.

The legal profession can hardly be said to have had an existence in the English colonies in America during the seventeenth century. No profession can long maintain a footing in any community unless its members can

[139] Will and Doom, or the Miseries of Connecticut by and under an Usurped and Arbitrary Power. Conn. Hist. Soc. Collections, III, 69, 112, 131, 232.

[140] Thus in 1647, the General Court of Massachusetts voted to import for the use of the magistrates two copies of each of the following books: Coke on Littleton, New Terms of the Law, Dalton's Justices of the Peace, Coke's Reports, Coke on Magna Charta, Books of Entries, Mass. Col. Rec. II, 212. See also a reference in 1650 to the work known as Lex Mercatoria as an authority concerning maritime affairs. *Id.*, III, 193.

earn their living by it. In the early days of the Colonial era there was little form or regularity in what they had of judicial procedure, and the pecuniary interests involved were seldom large. As any important controversies over matters of property were heard before the Governor and his Council, or the General Court, advocates required a knowledge of politics rather than of law.

The system of judicial appeals to the King in Council was worked out with more and more precision as the eighteenth century advanced.[141] It continued to be distasteful to the colonists; but they could only oppose it by indirect means, such as requiring the appealing party to make a deposit of money, or give heavy bonds for payment, should he lose, of his opponent's costs.[142] Occasionally, also, we find the American courts declining to carry out an order reversing their decisions, on the ground that it did not conform to the local practice established under the order of the charter.[143]

Some of the judgments rendered by the King in Council denied validity to Colonial statutes which were of the first importance. Such was that in the case of Winthrop v. Lechmere, previously mentioned, rendered in 1727,[144] by which the rules of inheritance which had been followed in Connecticut for nearly a hundred years were set aside as contrary to the laws of England respecting primogeniture.

[141] See the instructions as to allowing appeals in all causes involving £500, sent to the Governors of New Hampshire, Massachusetts, New Jersey, Pennsylvania, Virginia, and South Carolina in 1753. New Jersey Archives, 1st Series, VIII, 190.

[142] A Pennsylvania statute passed in 1715, to this effect, was repealed by the Lords Justices in Council, in 1719. Pennsylvania Statutes at Large, III, 32.

[143] Such was the case of Frost v. Leighton in the Superior Court of Judicature of Massachusetts, decided in 1738. Am. Hist. Review, II, 229.

[144] Colonial Records of Connecticut, VII, 571, 191.

Certain political ideas were thus firmly embedded in the American mind. One was that every statute was subject to be set aside if its enactment transcended the powers conceded in the charter to the colonial legislature. Another was that there was a supreme law—the common law of England, modified in rare instances by Act of Parliament—which was one and the same for every colony, and that if any of their judicial tribunals failed to respect it, the judgments could be reversed by an imperial court of appeal.

From the beginning of the Colonial government of Connecticut the number of capital crimes was comparatively small. In 1702 hardly more than a dozen were stated, and yet during the 18th century the number so punishable in England increased to over two hundred. A list of the statutes relating to capital offences follows.

An act for punishing of capital offenders.

Idolatry. Be it ordained and enacted by the Governor, council and representatives, in General Court assembled, and by the authority of the same, That, If any man or woman after legal conviction, shall have or worship any other God, but the Lord God, he or she shall be put to death (Deut. XIII. 6, 17, 21 Exod. XXII. 2).

Blasphemy. If any person within this colony, shall blaspheme the name of God, the Father, Son, or Holy Ghost, with direct, express, presumptuous, or high-handed blasphemy; or shall curse in the like manner, he shall be put to death (Levit. XXIV. 15, 16).

Sodomy. If any man lyeth with man-kind as he lyeth with a woman, both of them have committed abomination, they both shall surely be put to death; except it appear that one of the parties were forced, or under fifteen years of age (Levit. XX. 13).

Rape. If any man shall forceably and without consent, ravish any maid or woman, by committing carnal copulation with her, against her consent, he shall be put to death; Provided prosecu-

tion and complaint be made forthwith upon the rape (Deut. XXII. 25).

Man Stealing. If any man stealeth a man or mankind, and selleth him, or if he be found in his hand, he shall be put to death (Exod. XXI. 16).

False Witness. If any person rise up by false witness, wittingly and of purpose to take away any man's life, he or she shall be put to death (Deut. XIX. 16, 18).

Witchcraft. If any man or woman be a witch, that is, hath, or consenteth, with a familiar spirit, they shall be put to death (Exod. XXII, 18. Levit. XX. 27 Deut. XVIII. 10, 11).

Murder. If any person shall commit any wilful murder, upon malice, hatred or cruelty, not in a man's just and necessary defence, nor by casualty against his will, he shall be put to death (Exod. XXI. 12, 13, 14. Numb. XXXV. 30, 31).

Murder thro' guile. If any person shall slay another, through guile, either by poysoning, or other such devilish practices, he shall be put to death (Exod. XXI. 14).

Beastiality. If any man or woman shall lye with any beast, bruit creature, by carnal copulation, they shall surely be put to death, and the beast shall be slain and buried (Levit. XX. 15, 16).

Conspiracy. If any person shall conspire or attempt any invasion, insurrection, or publick rebellion against this colony, or shall treacherously and perfidiously attempt the alteration and subversion of our frame of Government, fundamentally established by his late majesties gracious charter, granted to this colony, by endeavouring the betraying of the same, into the hands of any foreign power; he shall be put to death.

Wilful Firing a dwelling house, &c. If any person of the age of sixteen years and upwards, shall wilfully and of purpose, fire any dwelling house, barn or out house, he shall be put to death, or suffer such other severe punishment as the Court of assistants shall determine, if no prejudice or hazard to the life of any person come thereby; and also satisfy all damages, to the wronged or agrieved party.

Children cursing or smiting Parents. If any child or children above sixteen years old, and of sufficient understanding shall curse

or smite their natural father or mother, he or they shall be put to death; unless it can be sufficiently testified, that the parents have been very unchristianaly negligent, in the education of such children, or so provoked them by extreme and cruel correction, that they have been forced thereunto to preserve themselves from death, or maiming (Exod. XXI. 15, 17. Levit. XX. 9).

Rebellious Son. If any man have a stubborn or rebellious son, of sufficient understanding and years, viz. Sixteen years of age, which will not obey the voice of his father, or the voice of his mother, and that when they have chastened him, he will not hearken unto them; then may his father or mother, being his natural parents, lay hold on him and bring him to the magistrates assembled in court, and testify unto them that their son is stubborn and rebellious, and will not obey their voice and chastisement, but lives in sundry notorious crimes, such a son shall be put to death (Deut. XXI. 20, 21).[145]

A statute concerning Arrest and Imprisonment runs thus:—

No Man's person shall be arrested and imprisoned for any Debt, Damage, or Fine, where sufficient means of Satisfaction can otherwise lawfully be found, from his Estate, to be shewn and presented by him; but if no such Satisfaction can be found, his Person may be arrested and imprisoned: Where he shall be kept at his own Charge, 'till Satisfaction be made; unless the Court that hath cognizance of the Cause, shall otherwise determine and order.

Provided nevertheless, That no Person or Persons for the non-payment of Rates, Fines, Debts, or for any Crime or Offence, shall be committed to Prison, without a Mittimus granted and signed by Civil Authority, declaring the Cause and Ground of his Commitment, requiring the Goaler, Master or Keeper of the Prison, to receive and keep such Person or Persons within the Prison, until discharged according to Law: Unless where any proper Officer for want of Estate, seize the Body or Bodies of any Person or Persons by Execution or Distress, or Warrant for Fines or Rates, and commit him or them to Prison; in which case a Copy of the Execution or Distress, attested and signed

[145] Rev. Statutes of Conn., 1702. p. 12.

by such Officer, and delivered to the Goaler, Master or Keeper of the Prison, shall be a sufficient Warrant or Order for him to receive such Person or Persons; and him or them to hold in safe Custody 'till delivered by Law.

And if no other Means can be found to pay the Debt for which such Debtor is imprisoned, the Debtor shall satisfy the same by Service, if the Creditor desire it and the Court shall judge it reasonable; in which case the Superior or County Court shall have Power to order and dispose of such Debtor in Service, for the Purpose aforesaid, to some Inhabitant of this State, whether the Execution by which he is held issued from such Court or not.

Provided always, That no Court in this State shall, in any Civil Case, assign or dispose of any Person in Service, until such Court is satisfied by the Oath of the Parties or otherways, that such Debtor hath not Estate sufficient to pay the Debt for which he is holden by Execution, except such Necessaries as are by Law exempted from being taken by Execution; and the Debt for which he is holden is really and *bona fide* due, on good Consideration.[146]

It will be remarked that while a man could be imprisoned for debt, a creditor could also apply to the Court for power to dispose of the debtor in service to some inhabitant of the State, whether the execution by which the debtor was held issued in such Court or not, provided always "that such debtor hath not Estate sufficient to pay the debt for which he is holden by Execution, except such necessaries as are by law exempted from being taken by execution, and the debt for which he is holden is really and *bona fide* due, on good consideration."

This is in substance reduction to slavery, and seems to have given insufficient guaranties to the debtor against the authority issuing the execution.

The most important decision rendered by the courts of Connecticut during the Colonial period was that which presented the question of the applicability of the

[146] Rev. Statutes of Connecticut, 1784. p. 9.

law of descent in England to the settlement of estates in Connecticut. It was a law in England that on failure of lineal descendants or issue of the person last holding real estate, at the time of his death the inheritance should descend to his collateral relations, being blood of the first purchaser. For this Blackstone is the all-sufficient authority.[147] The requirement that the heir must be of the blood of the first purchaser, that is, must have been descended from the first purchaser, was something peculiar to the feudal system. It rested on the principle that feuds were granted for personal service and personal merit, and that like service and like merit, on the part of the successors in estate of the feudatory, would be best assured by admitting to that number only those who derived their natural characteristics from him by descent. A legal fiction was next invented, by which, failing direct descendants of the person last seized, his collateral heirs were deemed to be of the blood of the first purchaser; that position being arbitrarily assigned to the common ancestor, whether in fact he ever owned the land or not. In order to establish their title, however, it was necessary to trace their descent back to him, in each degree, through "inheritable blood." If, therefore, any intermediate ancestor was an alien, as he could have no heirs, so he could have no inheritable blood, and the land escheated.

It is this regard paid by the common law to the original purchaser of the estate, real or fictitious, that led it to reckon degrees of consanguinity in accordance with the canon law, by simply going back to the common ancestor, without then proceeding, as by the civil law, to compute the degrees between him and the intestate.

[147] Blackstone, Comm. II, 220.

The real estate tenures of a country are necessarily an important feature of its political system. The institutions of feudalism and primogeniture were obviously unsuited to the conditions under which New England was first settled, and her people looked more to the civil than to the common law to guide their policy as to the distribution of landed estates.[148]

In October, 1639, the General Court of Connecticut, upon the report of a committee which had been appointed "to ripen some orders that were left unfinished the former Court" as to the "settling of lands, testaments of the deceased," and other matters, enacted that intestate estates should be divided by the Public (or Particular) Court between the wife, children or kindred, "as in equity they shall see meet;" and if no kindred be found, the court "to administer for the public good of the Commonwealth." [149] In the Revision of 1673[150] the provision is that such estates be divided, among children or kindred "according to Law, and for want of Law, according to rules of Righteousness and Equity; and if no kindred be found, the Court to administer for the publick good of the Colony." At the close of the century, in 1699, a statute of distributions was passed, copied mainly from that adopted several years before in Massachusetts. It put all the children of an intestate on a footing of equality, except that the eldest son was to have a double portion.[151] In 1713 it was further provided that male heirs should have their shares set out in real estate, so far as this was practicable.[152] In

[148] Washburn, on Real Property, II. 404. 408.
[149] Colon. Recs. of Conn. I. 38; Ludlow's Code, *id.* 553.
[150] Ed. of 1865, p. 36.
[151] Statutes, Revision of 1702, Ed. 1715, p. 61.
[152] *Ibid.* p. 192.

1727[153] it was enacted that real estate which came to the intestate by descent, should be distributed among his kindred of the blood of the purchasing ancestor, without distinction between those of the whole blood and those of the half blood, nor should any such distinction be made as to real estate which came to the intestate by purchase; and also that "the next degree of kindred in the Line Traverse shall be admitted to the Inheritance before the next degree of Kindred in the Line Ascendant; and the next degree of Kindred in the Line Ascendant shall be admitted to the Inheritance before a Remoter degree in the Line Traverse." This statute was omitted in the Revision of 1750.

This course of legislation plainly set up for the Colony of Connecticut rules of inheritance differing fundamentally from those of the common law of England. For that cause, the statute of distribution was pronounced null and void by the King in Council, in the well-known case of Winthrop v. Lechmere, in 1727–8.[154] That judgment was, however, practically disregarded in the Colony; and the statute was finally sustained, as a legitimate exercise of chartered rights, by the same tribunal, in 1745, in the case of Clark v. Towsey.[155]

This has been the uniform doctrine of the Colony Courts. "The English law of descents has never been admitted in this State."[156] The common law maxim, *Seisina facit stipitem,* was never accepted here.[157] The computation of degrees of relationship between an intestate and his heirs has always been made according to

[153] Session Laws, p. 110.
[154] Col. Rec. of Conn. VII. 191, 571–9.
[155] *Ibid.* IX. 587–593.
[156] Heath v. White, *Ibid.* V. 228, 233.
[157] Hillhouse v. Chester, Day III. 166, 211; Bush v. Bradley, *Ibid.,* IV. 298, 305.

the rule of the civil law.[158] Bastards have been allowed to inherit through their mothers, without regard to the common law doctrine as to their defect of "inheritable blood." [159]

The only indication, either in legislative or judicial records, of the recognition in this Colony of the common law doctrine that no title to an inheritance could be traced to alien blood, is that contained in a private act passed by the General Assembly in 1774. By this statute, entitled "An Act for the Naturalization of Francis Forgue, for confirming the Purchase of Real Estate by him made and rendering his issue capable of inheriting," a grant of naturalization was made to Francis Forgue, a Frenchman, who had purchased lands in the Colony and resided in Fairfield; his title to these lands was confirmed; and it was declared that his son, Francis Forgue, Jr., was and should be "capable of inheriting and taking by descent or purchase all and any real estate or estates whatsoever as he might, could or would have been, had the said Francis, the elder, been compleatly naturalized as aforesaid before the birth of the said Francis, the younger." [160] It is doubtless true that this express provision in favor of the son was made in order to assure or confirm his title, should he survive his father and become his heir, to the lands acquired by the latter while still a subject of France, as well as to any which he might subsequently purchase; and it is probably that it was inserted in view of the rule of common law that naturalization by Act of Parliament enables the son of the alien so naturalized to inherit from him, though born

[158] Hillhouse v. Chester, *supra.*
[159] Brown v. Dye, Root II. 280; Heath v. White, *supra;* Dickinson's Appeal, Conn. 42, 491.
[160] Col. Rec. of Conn. 14. 308–9.

before the passage of the Act. Such was not the case, if the alien had only been made a denizen, by letters patent from the Crown[161] and the draftsman of the statute could hardly have felt safe in assuming that greater effect, even in our own courts, would be given to a colonial than to a royal grant, unless it was plainly required in express terms. So late as 1795 it was an unsettled question in this State whether a conveyance of land to an alien might not be an absolute nullity.[162]

Prof. William C. Fowler contributed a valuable paper, "Local Law in Connecticut," to the New England Historical and Genealogical Record for 1870, from which we take the following extracts, which explains a legislation of New Haven Colony:

> In regard to this combination of the towns into what is called the New-Haven Colony, I would remark—
>
> First:—that it was produced, not by the attraction of the towns to one another, but by the fear of the Indians or other enemies.
>
> Second:—Milford, acting independently, had admitted to the right of suffrage six planters who were not members of the church. An arrangement was therefore made between that town and New-Haven, by which these six voters were allowed still to vote in town matters, but not on what pertained to the jurisdiction of the whole colony; to which was annexed the condition that Milford should not thereafter admit any others not members of the church to that right; thus giving up one of its own local laws.
>
> Third:—By this combining to form the jurisdiction of a New-Haven colony, the towns practically gave up a portion of their power to form their own local laws, and assumed a position subordinate, in some respects, to the jurisdiction of the colony.

At that time Long Island was claimed by the Dutch, and the colonists removed to Hampstead in considerable numbers. Here they could be under their own local

[161] Co. Litt., 129.
[162] Campbell's Appeal from Probate, Conn. Reports 64. 288–292.

law instead of the laws of New Haven, which were no longer local. They allowed all the inhabitants to vote, and made it their duty to do so.[163]

In 1645 it was thus provided by the General Court of New Haven:

Whereas there are 4 serjents & 4 corporalls chosen & appoynted for the millitary service & accordingly the plantations is devided into 4 squadrons, it is ordred that one of the squadrons in their course come constantly to the meeting howse to the publique worshipps of God, both every Lords day & on other dayes ordynary & extraordinary, & be there at o^r^ before the second drume hath left heatinge w^th^ there armes compleate, there guns ready chardged w^th^ a fit proportion of match for match locks & flints ready fitted in their firelock peeces & shott & powder for 5 or 6 chardges at least, there to attend the publique service and safty as the officers shall appoynt, vnder the penaltie of five shillings fine for neglect, o^r^ defect of furniture, & one shilling fine for late comminge. The sentinells also, & they that walke the rownd in their course, shall dilligently attend their trust & duty, & shall have their matches lighted dureing the time of meeteing, if the serve w^th^ matchlock peeces, vnder the penalty of 4^s^ fine; and the serjeants duely to returne the names of such as fayle & transgresse this order, vnder such penalty as the court shall se cause. And according to the course already begunne, that squadron w^ch^ is to bring armes the following Saboth shalbring armes the lecture day or any other extraordinary day of sollemne worshipp immediatly before, if they come to the lecture, &c.[164]

In 1666 the General Court voted as follows:

Its ordered by this Court that whateuer testimonies are improued in any Court of Justice in this Corporation in any action or case to be tried, shalbe presented in writeing and soe kept by the Sec^r^y or Clerke of y^e^ said Court on file; and the said Sec^r^y or Clerke for his paines herein shal be allowed by the Plaintiff two pence for fileing each individual writeing. And what coppies

[163] Fowler, Local Law in Connecticut: New England Hist. and Gen. Register, Vol. 24, p. 36.
[164] New Haven Colonial Records, 1638–1649, 203.

are required there shalbe sixpence for each coppy paid to the officer by him y[t] takes them out." [165]

It was the custom of the General Court during a large part of the Colonial period, if the magistrates or other authorities stated to the Court a question on the construction of the Colony statutes, and asked how it should be decided, to make a study of the point and give their opinion. (See Session Laws of 1729.)

The following question was submitted to the Court:—

Whereas the proprietors in some ancient towns in this government which were settled before any patents were granted out to them did agree or accustom themselves to divide the common or undivided lands within their townships amongst themselves, according to the methods, and the interests, and proportions, as by themselves were agreed on, or consented to, and did not grant their lands in town meetings, as some other towns in this colony have done, and have continued to practice according to their said ancient customs in the division of their common land from time to time to this day:

And whereas many of the ancient proprietors in such townships have sold not only divisions so obtained but also a considerable part of their interests and proportions in said common land, and thereby the purchasers thereof have obtained considerable estate to themselves, in the manner and form aforesaid,

And whereas some doubt hath arisen whether the law, made May the ninth one thousand seven hundred and twenty three entitled An Act for the better establishing and confirmation of titles of land anciently obtained in townships according to customs heretofore used, and for the preventing contentions about the same, doth effectually quiet and confirm titles obtained in the form aforesaid,

Whereupon a question arises and is put to this Assembly, namely, whether dispositions of lands, made by the proprietors of any town in this Government and the divisions and interests obtained in the form aforesaid be within the equity of the act aforesaid a confirmation of such interests and divisions?

Resolved by this Assembly in the affirmative.[166]

[165] Colonial Records of Connecticut, 1665–1677, 47.
[166] Revised Statutes of Conn., 1702, p. 368.

Prosecutions for witchcraft were never pushed in Connecticut to anything like the lengths which they reached in Massachusetts. They were few and capital punishment was in no case inflicted.

In 1670 a woman living in Wethersfield was imprisioned on a charge of witchcraft, and sentenced to death, but the appellate court, which was composed of the Assistants, gave judgment reversing that of the trial court, declaring that it could not

> concur with them so as to sentence her to death or to a longer continuance in restraynt, but do dismiss her from her imprisonment, she payeing her just fees; willing her to minde the fullfilment of remoueing from Weathersfeild, which is that will tend most to her owne safety & the contentment of the people who are her neighbors.[167]

In 1672 the General Court passed this order:

> The Deputy Gouerno^{r} and Assistants desired the aduice of the Generall Court concerning Incest, Whether the law of this Colony that orders in defect of a lawe we should haue recourse to the word of God for o^{r} lawe, and seeing the word of God doth anex death to be the penalty of Incest, whether such person or persons that haue comitted that sin ought not to be put to death, the Court haueing considered the case declared their judgments to be that such persons as are proued to be guilty of Incest, they ought by the lawe of God and o^{r} lawes as now they stand to be put to death.[168]

Until the year 1672, the laws of Connecticut had been kept in manuscript, copies being sent to the several towns. In October, 1672, it was ordered that the laws of the Colony should be printed, and this was done, making a book consisting of about 75 pages. They

[167] Colonial Records of Connecticut, 1665–1677, 132, note.
[168] Colonial Records of Connecticut, 1665–1677, 184.

were bound up with an equal number of blank pages, and the laws passed after the printing of the book were inserted in writing in the blank pages until the book was filled up.

On October 10, 1672, it was ordered that

every family in the several plantations in this Colony, shall purchase one of our Law Books to keep for their use, and the constables of the several plantations are to see that this order be duly attended, and that the books are paid for as they are delivered, either in silver or wheat; those that pay in silver, to pay twelve pence a book; and those that pay in wheat, to pay a peck and a half a book, and those that have not those things to pay, are to pay two shillings in pease for a book; pease at three shillings pr bushel, all to be delivered at the County townes in each County.[169]

In 1689 the General Court of Connecticut took the following action and put it in immediate force:—

For the present peace and safety of this part of New England called Connecticutt, the necessity of the circumstances it is now under so requireing, it was voted by the Freemen that they would re-establish the Government as it was before and at the time when S[r] Edmond Androsse tooke the Government, and so to have it proceed as it did before that time according to charter, engageing themselves to submit to it accordingly untill there shall be a legall establishment setled amongst vs.[170]

In 1697 this Act was passed to compel interested parties to testify:

Whereas oftentimes when upon complaint of mi(s) demeanors, persons being called to give evidence in cases that are of a capitall or criminall nature, or of breach of a penall lawe, doe refuse to give evidence therein, whereby justice in punishment of those that are offenders is hindred; for regulation whereof, and that

[169] Hinman's Antiquities, p. 135, note.
[170] Colonial Records of Connecticut, 1678–1689, 250.

justice may be promoted in such cases, be it therefore enacted by this Court and the authority thereof, that for the future, after publication hereof, whatsoever person shall be called by civill authority to give evidences in any such cases as aforesaid, and shall refuse to make answer so farre as he is capable to such questions as shall be demanded respecting the case in question, and also refuse to make oath that he will declare all and whatsoever he knowes or hath cognisance of respecting the case or matter in question, shall by the authoritye before whome he is called to give such evidence be comitted to the countie gaole, there to remain untill he will make oath that he will give evidence as aforesaid, and while in prison to remain at his own cost and finding; alwayes provided that no person required to give testimonie as aforesaid shall be punished for what he doth confesse against himselfe when under oath.[171]

In 1698 the General Court referred to the Governor and Council a proposition to prepare a bill "for direction and limitation of lawes of England, how farre to be in force here." [172]

The law against Quakers was disallowed by the Crown in October, 1705, in the following form:

A representation from the Lords Comm^rs of Trade and Plantations, being this day read at the Board, upon an Act passed in her Ma^ties Colony of Connecticutt, entituled only Hereticks, whereby it is enacted, That all who shall entertain any Quakers, Ranters, Adamites and other Hereticks, are made liable to the penalty of five pounds, and five pounds p^r week for every towne that shall so entertain them, That all Quakers shall be committed to prison or be sent out of the Colony, That whoever shall hold unnecessary discourse with Quakers, shall forfeit twenty shillings, That woever shall keep any Quakers books (the gouvernour, magistrates, and elders excepted) shall forfeit ten shillings, and that all such books be supprest, That no master of any vessell do land any Quakers without carrying them away again, under the penalty of twenty pounds: And the said Lords Comm^rs humbly

[171] Colonial Records of Connecticut, 1689–1706, 236.
[172] Colonial Records of Connecticut, 1689–1706, 261.

offering, that the said Act be repealed by her Ma^tie^, it being contrary to the liberty of conscience indulged to dissenters by the laws of England, as likewise to the charter granted to that Colony: Her Ma^tie^ with the advice of her Privy Councill, is pleased to declare her disallowance and disapprobation of the said act, and pursuant to her Ma^ties^ royall pleasure thereupon, the said Act passed in her Ma^ties^ Colony of Connecticutt in New England entituled Hereticks, is hereby repealed, and declared null, and void, and of none effect.[173]

In 1706 the General Court, at its next session, repealed the Act, which had already been thus repealed by the crown.

In 1706 the following order was passed at the instance of the Society for the propagation of the Gospel in foreign parts:

The rever^d^ and worthie gentlemen intrusted by the hon^bl^ corporation in England with the stock that is given to promote the conversion of the natives in this land, having signified their earnest desire that some methods may be religiously pursued for the promoting of that good work in this colonie, and their readiness to do the best they can for the support of the expensive part thereof: this Assembly being very desirous to promote a work so religious and charitable, do recommend it to the rever^d^ ministers in this colonie at their countie meetings, to consider what may be the best way and means for carrying on so good a work, and to prepare such proposals as in their judgments may be most conducive to that end, and to present them to this Assembly in May next for their concurrence. Copie hereof to be sent to the ministers in the head towns in each countie, to be communicated to their brethren respectively.[174]

In 1708 the Saybrook Platform as adopted was approved, and it was ordained that all the churches of the Colony that "are or shall be thus united in doctrine,

[173] Colonial Records of Connecticut, 1689–1706, 546.
[174] Colonial Records of Connecticut, 1706–1716, 7.

worship, and discipline, be, and for the future shall be owned and acknowledged established by law.[175]

In 1709 the following Act was passed:

Forasmuch as by reason of the great scarcity of money, the payment of the publick debts and charges of this government, especially in the intended expedition to Canada, is made almost impracticable: for remedy whereof.

Be it enacted by the Governour, Council and Representatives, in General Court assembled, and by authority of the same, That there be forthwith imprinted a certain number of bills of credit on this Colony, in suitable sums from two shillings to five pounds, which in the whole shall amount to the sum of eight thousand pounds and no more; which bills shall be indented and stamped with such stamps as the Governour and Council shall direct, and be signed by a committee appointed by this Court, they or any three of them, and of the tenor following, that is to say,

No. ( ) 20s.

This indented bill of twenty shillings due from the Colony of Connecticut in New England, to the possessor thereof, shall be in value equal to money, and shall be accordingly accepted by the treasurer and receivers subordinate to him, in all publick payments, and for any stock at any time in the treasury. Hartford, July the twelfth, Anno Dom. 1709. By order of the General Court.

J. C.)
J. H.) Committe.
J. E.)

And so *mutatis mutandis* for a greater or lesser sum.

And the said committee are hereby impowred with the advice of the Governour, to take care as soon as may be, to imprint the said bills to the sum of eight thousand pounds as aforesaid, and to sign and deliver the sum of four thousand pounds thereof, and no more, to the treasurer, taking his receipt for the same; and to keep the other four thousand pounds unsigned in their own hands, until further order from this Court; and the said committee shall be under oath for the faithful management of the affair aforesaid, and trust in them reposed.

And be it further enacted by the authority aforesaid, That the

[175] Colonial Records of Connecticut, 1706–1716, 87.

treasurer be, and hereby is ordered and impowred to issue forth and emit the said bills towards payment of the publick debts of the Colony already contracted, and the further necessary charge thereof, according to such order as shall from time to time be given him according to law. And the said bills shall pass out of the treasury at the value therein expressed, equivalent to money, and shall be taken and accepted in all publick payments at the advance of twelve pence on the pound more.

And be it further enacted and declared by the authority aforesaid, That as a fund and security for the repayment and drawing in of the said bills to the treasury again, and for defraying any further charge of the Colony, this Court grants a rate of ten pence on the pound in money; one moiety thereof to be levyed according to the next list of heads and estates, and shall be paid into the treasurer on or before the first day of May in the year of our Lord God one thousand seven hundred and ten; the other half to be levyed according to the list of heads and estates to be made in the year 1710, and to be paid into treasurer on or before the first day of May in the year of our Lord one thousand seven hundred and eleven. And liberty is granted for any person to pay his rate either in bills of credit, silver money, or in pork at fifty shillings per barrel, or beef at thirty shillings per barrel, winter wheat at four shillings per bushel, rye at two shillings four pence per bushel, and Indian corn at two shillings per bushel; the grain to be all good and merchantable, and the pork and beef to be good and well repackt, with the packers mark thereon; and no person shall have liberty to pay above two thirds of his rate in rye and Indian corn.

And it is further provided and enacted by this Court and the authority thereof, That no person to whom the Colony is or shall be indebted shall be obliged to receive out of the treasury any grain or other provision but what is good and merchantable; and if any dispute shall at any time arise about the merchantableness of the grain or other provision tendred to the constables or receivers of the rate, or that happens to be damnified after it is received, it shall be determined by the judgment of one indifferent person under oath, to be appointed and sworn by the next assistant or justice of the peace.[176]

The amount of the bills of credit thus authorized was soon increased to eleven thousand pounds.

[176] Colonial Records of Connecticut, 1706–1716, 111, 112.

The next year the following Act was passed:

An Act for better Regulating and giving a more Effectual Currency to the Bills of Publick Credit.

Whereas the want of a due currency of the bills of publick credit, created by an act made and passed by the General Court or Assembly, begun and holden at Newhaven, upon Wednesday, the 8th day of June, 1709, and continued by adjournment unto the 11th day of the same month, and by one other act made and passed by the General Court or Assembly, begun and holden at Newhaven, upon Thursday, the 13th day of October, 1709, and continued by adjournment unto Friday, the 28th day of the same month, hath been and is still like to be very prejudicial to this Colony in general, as well as to particular persons:—For remedy and prevention thereof,

Be it enacted by the Governour, Council and Representatives, in General Court assembled, and by the authority of the same, That all the rates hereafter to be made pursuant to either of the said forementioned acts, for the providing a fund or security for the repayment and drawing in of the said bills to the treasury of this Colony, shall be paid either in bullion at the rate of eight shillings the ounce, troy, or in the bills of publick credit created as aforesaid, and in no other manner.

And be it further enacted by the authority aforesaid, That all the rates or taxes to be hereafter made and levyed, pursuant to the said acts, or either of them, for supplying the said treasury with a fund for the repayment and drawing in of the said bills as aforesaid, at or before the last day of June, which shall be in the year of our Lord one thousand seven hundred and fifteen, any thing in either of the forementioned acts to the contrary notwithstanding.

And whereas the words (in all public payments) which were inserted in the form of the said publick bills of credit created by the aforesaid acts, are omitted in the aforesaid bills of credit, which may occasion some dispute, although the said words are not so material in the tenour of the said bills, as of necessity to be any damage to them: yet for the prevention of any such disputes or other inconveniencies that otherwise may afterwards arise therefrom,

Be it enacted, and it is hereby enacted by the authority aforesaid, That the said bills of publick credit created as aforesaid, shall be as good and effectual to all the intents and purposes

mentioned in either of the aforesaid acts, or in this present act, or any other intents and purposes whatsoever, as they might or could have been, if the said words so omitted as aforesaid, had been inserted fully and at large in the said bills.[177]

To dispose of cases of maritime jurisdiction without a jury harmonized better with the trust in magistrates commonly felt in Connecticut than to commit them to the decision of the common law Colonial courts. There were admiralty judges in some of the colonies, where the judges could decide the facts in dispute. Connecticut had a maritime code of considerable length, containing twenty-seven sections.

In 1719 a cruel and unusual punishment was provided for manslaughter.

Whereas the laws of this government have not specially provided for the punishment of the crime known by the laws of England by the name of manslaughter, or the willful killing another without malice forethought,

Be it enacted and declared by the Governour, Council and Representatives, in General Court assembled, and by the authority of the same, That whatsover persons shall be convicted of the crime aforesaid, by confession or verdict, before any of the superior courts of this Colony, shall forfeit to the publick treasury of this Colony all their goods and chattels which to them belonged at the time of their committing the said crime, and be further punished by whipping on the naked body, and stigmatized or burnt on the hand with the letter M on a hot iron, and be forever disinabled in the law from giving verdict or evidence in any of his Majesties courts in this government.[178]

The Governor had large and growing authority.

The following order that came quite close to a dictatorship was passed in 1710.

[177] *Ibid.*, 157.
[178] Colonial Records of Connecticut, 1717–1725, 144.

It is ordered and enacted by this Assembly, That the Council to assist the Governour, or in his absence the Deputy Governour, in the intervals of this Assembly, shall consist of two of the Assistants at the least, and four able, judicious freemen, such as the Governour, or in his absence the Deputy Governour, shall call to Council; who shall have power in the intervals of the General Assembly, to manage the affairs of this Colony, according to charter, but not to raise men to send out of the Colony, unless it be in case of exigency, nor to raise money.[179]

In 1720 a difference of opinion as to the expenses of the Governor was settled in his favor by the following vote of the Council:

Whereas it has been settled and established, that the Governour, in his riding to and during the session of the Assembly in May and October, should be at his own charge, in consideration of that addition which has been made to his salary above what has been formerly allowed to gentlemen in that post, which establishment has been duly observed: And whereas it has been anciently allowed that one person at least should at the Colonies charge wait upon the Governour in his journey to and from the said sessions and during the same: It is thought convenient and resolved, that the charge of such a person, so attending and waiting, ought not to be lookt upon as a part of the Governours charge which he is to defray himself, but that it be allowed out of the publick treasury, and that accordingly such a person shall be allowed two shillings and sixpence *per diem*.[180]

In 1722 the General Assembly took the following action:—

This Assembly being fully certified that on this instant October the prison house and common gaol for the county of Hartford, in Hartford, in a tumultuous manner, with strong hand was broken open, and divers persons there committed for the non-payment of certain charges arising upon their prosecution before the county court of and for the county aforesaid, pursuant to a sentence of the said court, were taken, rescued and delivered out of the

[179] Colonial Records of Connecticut, 1706–1716, 159.
[180] Colonial Records of Connecticut, 1717–1725, 198.

custody of the law; and in that riotous transaction and affray, besides the breaking open of the house and prison aforesaid, in a riotous manner, with an open and high-handed contempt of his Majesties government, other high misdemeanours and notorious breaches of the peace and other crimes were perpetrated and committed: To the end that such wickedness may be supprest, and the guilty thereof may be duly punished according to their several crimes and insolencies, *Be it enacted and ordained by the Governour, Council and Representatives, in General Court assembled, and the authority of the same,* That the judges of the superior court, or any three of them, are hereby specially authorized and appointed, by a jury or otherways, according to law, to enquire into, hear and determine, all crimes committed in the transaction aforesaid, and all things relating thereunto, as also to award execution thereupon accordingly; any law, usage, or custom to the contrary notwithstanding. And for this end, the chief judge, or either of them, or any assistant, shall issue out the proper writs for the apprehending, securing, and bringing before the said judges in court as aforesaid any and every person they shall think proper to be called in question for any misdemeanour by them committed on the occasion aforesaid; and every person so taken shall give bond, with sufficient sureties to the value of £100. that he shall appear before the court so constituted and appointed as aforesaid when called by the said court thereunto, and for the peace and good behaviour in the mean time, or be committed to the gaol of any of the counties of this Colony, there to remain till the said court or till he shall be otherwise lawfully discharged.

And further, The said judges are hereby authorized and directed to cause precepts to be issued forth for the summoning jurors to serve on the said occasions, out of such places in the said county as they shall think most free from being privy to, or having a favour of, the transgressors they shall have to pass upon.

And further it is hereby provided, That the said judges may give such orders for causing any number of the officers and souldiers of the militia within said county, to attend the said court in the quality of a guard, as they shall judge needful for the security of the court. And both officers and souldiers are hereby commanded to yield obedience to the said orders.

And be it further enacted and declared by the authority aforesaid, That it is the true intent and meaning of the second paragraph in the law intituled An Act against theft and burglary, to

provide against the breaking up of any dwelling-house, as well in the day time as in the night.

It will be observed that here the legislature declares the meaning of the law, thus exercising the judicial power. But it was usually the course of the General Assembly during the Colonial period to exercise executive, judicial and legislative powers or any combination of them at pleasure, the General Assembly having supreme authority.

This suit was the outcome of a very bitter controversy in regard to a title to lands between Major Clark of Saybrook and Captain Fitch of the territory soon to be incorporated as Coventry. Major Clark won the suit, and the defendant, Captain Fitch, was committed to Hartford jail without bail for non-payment of costs. This occasioned considerable excitement among the friends of Captain Fitch, who had a similar title in respect to the district known as "mile and a quarter." On the afternoon of October 22nd, 1722, a party numbering about fifty from the neighbouring towns, crossed the Hartford ferry, demanded the release of Captain Fitch, and this being refused, the doors were broken open and a general jail delivery made. The sheriff overtook the rioters at the riverside, and attempting to make arrests, was beaten while the rioters with the persons rescued made their escape. The friends of Major Clark rallied to his support, and in a few days a statute was passed by the General Assembly to give a more effectual remedy for such disorders. The statute follows:

That when three persons or more shall come or assemble themselves together, to the intent to do any unlawful act with

force or violence against the person of another, as to kill, beat or otherwise to hurt, or against his possessions or goods, as to break open or pull down an house or fence wrongfully, or to cut or take away corn, grass, wood or other goods wrongfully, or to do any other unlawful act with force or violence against the peace or to the manifest terror of the people, at any time after the first day of November next, and being required or commanded by any of the civil authority, or by any sheriff or under sheriff, or any one or more of the selectmen, or constable of any town where such assembly shall be, by proclamation to be made in the King's name, in the form hereinafter directed, shall not disperse themselves and peaceably depart to their habitations or their lawful business; or being assembled as aforesaid, shall do any unlawful act against any man's person or possessions or goods, or against the publick interest in any particular, in manner as aforesaid, and be thereof convicted by due course of law before the county court or before the superior court to be holden in the respective counties where this law shall be trangressed and broken, shall be punished by fine, not exceeding for each person twenty pounds, imprisonment, not exceeding six months, or by whipping, not exceeding forty stripes; any or all of the said punishments at the discretion of the court that have cognizance of such offence, as the nature and circumstances of the fact shall require.

And be it further enacted by the authority aforesaid, That the order and form of the proclamation aforementioned shall be as followeth, that is to say: the persons authorized by this act shall, among or as near as he or they can, safely come to the said rioters, with a loud voice command, or cause to be commanded, silence to be whilst proclamation is making, and after that shall openly and with loud voice make, or cause to be made, proclamation in these words, or like in effect, viz:

Our sovereign lord the King chargeth and commandeth all persons being assembled immediately to disperse themselves and peaceably to depart to their habitations or to their lawful business, upon the pains contained in the act of law of this Colony made in the ninth year of King George for preventing and punishing riots and rioters.

And every assistant, justice of the peace, sheriff, under sheriff, selectman, or constable, within the limits of their respective jurisdictions, are hereby authorized, impowred and required, on notice or knowledge of any such unlawful and riotous assembly, to

resort to the place where such assembly shall be, and there make, or cause to be made, proclamation in manner aforesaid.

And be it further enacted by the authority aforesaid, That if such persons so unlawfully and riotously assembled, or any three or more of them, after proclamation made as aforesaid, shall continue together and not disperse themselves, that then it shall and may be lawful to and for every assistant, justice of the peace, sheriff, under sheriff, selectman, or constable, where such assembly shall be, and to and for such other person or persons as shall be commanded to be assisting unto any assistant, justice of the peace, sheriff, under sheriff, selectman or constable, (who are hereby authorized and impowred to command all his Majesties subjects of age and ability to be assisting to them therein) to seize and apprehend, and they are hereby required to seize and apprehend such persons so unlawfully and riotously continuing together after proclamation made as aforesaid, and forthwith to carry the persons so apprehended before some assistant or justice of the peace, in order to their being proceeded against according to law. And that if any of the persons so unlawfully and riotously assembled shall happen to be killed, maimed or hurt, in the dispersing or apprehending, or endeavouring to disperse or apprehend them, by reason of their resisting the persons so dispersing or endeavouring to disperse or apprehend them, that then every assistant, justice of the peace, sheriff, under sheriff, selectman or constable, and all and singular the persons being aiding and assisting to them, or any of them, shall be free, discharged and indemnified, as well against the King's majesty, his heirs and successors, as against all and every other person or persons of, for, or concerning the killing, maiming or hurting of any such person or persons so unlawfully and riotously assembled, that shall happen to be so killed, maimed or hurt as aforesaid.

Provided always, and be it further enacted by the authority aforesaid, That if any person or persons do or shall with force and arms wilfully and knowingly oppose, obstruct, or in any manner wilfully and knowingly let, hinder or hurt any person or persons that shall begin to proclaim or go to proclaim according to the proclamation hereby directed to be made, whereby such proclamation shall not be made, and be thereof convicted by due course of law; shall forfeit, suffer or be punished in manner and form as aforesaid; and that also every such person or persons so being unlawfully and riotously assembled, to the number of three as aforesaid, or more, to whom proclamation should or ought to have

been made if the same had not been hindered as aforesaid, shall likewise in case they or any of them, to the number of three or more, shall continue together and not immediately disperse themselves after such let or hindrance so made, having knowledge of such let or hindrance so made, and be thereof convicted by due course of law, shall forfeit, suffer or be punished in manner and form as aforesaid.

And be it further enacted by the authority aforesaid, That this act shall be openly read by the town clerk in the town meeting for the choice of town officers in each town annually.

A marked characteristic of Colonial Connecticut was public economy, and public confidence. It was managed very much as a private family. Paternalism was the rule. The people had that respect for authority that only comes from feelings of trust in public men. They were accustomed to re-elect all who would accept the obligations. The Governors were thus continued in office virtually for life.

Payments were ordered by the General Court from the treasury, sometimes without any specific warrant or appropriation. On the eve of a projected treaty with the Indians, in 1745, the Colony Council of Connecticut appointed two commissioners "to attend that service" at Albany, "and they are directed and impowered to draw out of y^{e} publick Treasury of this Colony Such sums of money as they Shall Judge necessary for s^{d} Service." [181]

In 1747 the finances of the Colony had become greatly embarrassed and the following Act was passed to protect it from the legislation of a similar kind in neighboring colonies.

An Act for the better supporting the Currency of the Bills of Publick Credit on this Colony.

[181] Connecticut Historical Society Collections, XIII, 42.

Whereas the bills of publick credit on the neighbouring governments of New England have obtained a currency in this Colony and have been received and passed by the inhabitants of this Colony promiscuously with the bills of credit on this Colony, by which means this Colony bills have sunk in their credit with the bills of the neighbouring governments, and thereby the medium of trade has become very unstable: Which inconveniency for the future to prevent,

Be it enacted by the Governor, Council and Representatives, in General Court assembled, and by the authority of the same, That for the future the bills of publick credit of this Colony only, or silver or gold equivalent thereto, shall be accepted, taken or received in this Colony for and in payment of court and jury fees, and for imposts, duties, excise and other payments to be made for the use of the Colony or county treasuries; and all judges and officers who shall receive any fees, imposts, duties, excise, or other payments for the uses aforesaid, are hereby strictly forbid to take or receive any of the bills of credit of the neighbouring governments for the aforesaid fees, imposts, duties, excise, or other payments for the uses aforesaid.

Provided nevertheless, That nothing herein shall be understood to prohibit or forbid the taking and the receiving the aforesaid bills of credit of the said governments into the public treasury in payment or discharge of bonds or mortgages heretofore given to the Governor and Company of this Colony, expressly allowing the receipt of the bills of credit of the aforesaid governments in payment or discharge thereof, but the said bills may be received according to the expression in such bonds or mortgages contained, this act notwithstanding.

And be it further enacted by the authority aforesaid, That all and every bond, bill, note or other contract, which shall be made in this Colony after the first day of October next, wherein or whereby the payment of bills of credit, of any of the aforesaid neighbouring governments or New York shall be expressly contracted for, shall be null and void; any usage or custom in any wise heretofore to the contrary notwithstanding.[182]

In 1755 the following act was passed:—

An Act more effectually to support the Credit of the Paper Bills lately emitted by this Government and to prevent Injustice by the Currency of other depreciated Bills among us.

[182] Colonial Records of Connecticut, 1744–1750, 282.

It being manifest that the bills of credit of the Province of New Hampshire and Colony of Rhode Island and Providence Plantations passing in this Colony not only long have been and still continually are sinking in value, but by obtaining a customary valuation compared with the bills of this Colony have a dangerous tendency to depreciate them also, by means whereof much injustice, oppression and loss has been and is hereafter likely to be perpetrated and occasioned: Which to prevent,

Be it enacted by the Governor, Council and Representatives, in General Court assembled, and by the authority of the same, That no person or persons within this Colony shall, directly or indirectly, from and after the first day of December nect, utter or receive any bill or bills emitted either on the credit of the said governments of New Hampshire or Rhode Island and Providence Plantations since the fifth day of December one thousand seven hundred and forty-nine, or which may hereafter be emitted, in any trade or dealing or in satisfaction of any debt, duty or demand whatsoever, on the penalty of five pounds lawful money, or such greater sum (not exceeding twenty pounds) as (regard had to the aggravation of the offence) the court having cognizance thereof shall see meet to inflict.

And be it further enacted by the authority aforesaid, That no contract which shall be made or security taken within this government after the first day of November one thousand seven hundred and fifty-six for any bills of what denomination soever by either of said governments already emitted or to be emitted shall be good or valid in law, but all such contracts and securities wherein such bill or bills shall be either imply'd, understood or exprest to be contracted for, after the time afore said shall be null and void. And that no accounts, securities or other evidence, shall be admitted in evidence of any such contracts or demands on or respecting the same in any Court within this Colony; any law, custom or usage heretofore to the contrary notwithstanding.

Provided nevertheless, That nothing in this act shall be construed or understood to make any of the aforesaid bills current or a tender in any trade or dealing which may happen at any time before the first of November aforesaid.[183]

In February, 1757, the following Act was passed:

Forasmuch as this Colony by past services for the protection and defence of his Majesty's just rights and dominions in North

[183] Colonial Records of Connecticut, 1751–1757, 406, 407.

America against the common enemy is involved in debt and the public treasury much exhausted and supplies sufficient and seasonable for the next campaign cannot be (obtained) without great difficulty in the usual way: Therefore, this Assembly, (taking) into serious consideration the necessity and importance of affording proportionable aid for the defence and protection of the lives, liberties and privileges as well as the religion of the people of this land (against) the common enemy, and the situation and circumstances of the (govern)ment in regard to the means of supply for carrying on these services, have thought it proper in order to obtain a present supply in a (voluntary) and chearful manner to order, and this Assembly do hereby (resolve) and order, that there be a public contribution throughout this Colony in the several congregations on the twentieth day of March next ensuing, for collecting the sum of five or six thousand pounds of those who on this occasion will freely give for the purpose aforesaid, and do hereby earnestly recommend to all, both ministers and people, and especially to the rich and wealthy, to consider the necessity, the importance and obligation of affording their help in this time of need; and that therefore they freely and liberally contribute of their substance for such great and good ends. And this Assembly recommends it to the ministers of the several congregations, at some convenient time before the contribution, to represent to their people the importance of the duty now recommended; and to exhort them to a proper exertion of themselves in the discharge of it. And the several ministers and deacons are directed to receive such contributions as may be made on this occasion, and transmit the same as soon as possible to the Treasurer of the Colony, taking his receipt therefor, to be lodged with the Secretary. And this Assembly further order, that a printed copy of this resolve be sent to the several societies in this Colony, and that the same be published a convenient time before the contribution is called for.[184]

In October, 1773, the following Act for the suppression of mountebanks was passed:

Whereas the practice of mountebanks in dealing out and administering physick and medicine of unknown composition indiscriminately to any persons whom they can by fair words induce

[184] Colonial Records of Connecticut, 1751–1757, 604.

to purchase and receive them without duly consulting, or opportunity of duly consulting, and considering the nature and symptome of the disorder for which, and the constitution and circumstances of the patient or receiver to whom they administer, has a tendency to injure and destroy the health, constitution and lives of those who receive and use such medicines: And whereas the practice of mountebanks in publickly advertising and giving notice of their skill and ability to cure diseases, and the erecting publick stages and places from whence to declaim to and harangue the people on the virtue and efficacy of their medicines, or to exhibit by themselves or their dependents any plays, tricks, juggling or unprofitable feats of uncommon dexterity and agility of body, tends to draw together great numbers of people, to the corruption of manners, promoting of idleness, and the detriment of good order and religion, as well as to tempt and ensnare them to purchase such unwholesome and oftentimes dangerous drugs:

Be it therefore enacted by the Governor, Council and Representatives, in General Court assembled, and by the authority of the same, That no mountebank, or person whatsoever under him, shall exhibit or cause to be exhibited on any publick stage or place whatsoever within this Colony, any games, tricks, plays, jugling or feats of uncommon dexterity and agility of body, tending to no good and useful purposes, but tending to collect together numbers of spectators and gratify vain or useless curiosity. Nor shall any mountebank, or person whatsoever under him, at or on any such stage or place offer, vend or otherwise dispose of, or invite any persons so collected to purchase or receive any physick, drugs or medicines, commended to be efficacious and useful in various disorders.[185]

Transition from Colony to State

Transition from Colony to State was simplified, and also complicated, by the existence of its charter. That was a natural bridge over which to pass from one character to the other. Connecticut was the only Colony having a full Constitution. Rhode Island had a charter, but the scheme of government under it was meagre

[185] Colonial Records of Connecticut, 1772–1775, 208.

and unworkable. The Connecticut charter was more full, and more popular.

The result was the passage in November, 1776, of the following Acts:

Whereas George the third, King of Great Britain, hath unjustly levied war against this and the other united States of America, declared them out of his protection, and abdicated the government of this State, whereby the good people of this State are absolved from their allegiance and subjection to the crown of Great Britain: And whereas the Representatives of the said United States in General Congress assembled have published and declared that these United States are and of right ought to be free and independent States, and that they are absolved from all allegiance to the British crown:

Resolved by this Assembly, That they approve of the Declaration of Independence published by said Congress, and that this Colony is and of right ought to be a free and independent State, and the inhabitants thereof are absolved from all allegiance to the British Crown, and all political connection between them and the King of Great Britain is, and ought to be, totally dissolved.

And be it enacted by the Governor, Council and Representatives, in General Court assembled, and by the authority of the same, That the form of civil government in this State shall continue to be as established by Charter received from Charles the second, King of England, so far as an adherence to the same will be consistent with an absolute independence of this State on the crown of Great Britain; and that all officers, civil and military, heretofore appointed by this State shall continue in force untill otherwise ordered: And that for the future all writs and processes in law or equity shall issue in the name of the Governor and Company of the State of Connecticut; and that in all summonses, attachments, and other processes before any assistant or justice of the peace, the words, One of his Majesty's justices of the peace be omitted, and that instead thereof be inserted justice of the peace; and that no writ or process shall have or bear any date save the year of our Lord Christ only; any law, usage or custom to the contrary notwithstanding. And that the act in alteration of an act prescribing forms of writs, processes &c. be repealed, and the same is hereby repealed.

An Act for the Punishment of High Treason and other atrocious Crimes against the State.

Be it enacted by the Governor, Council and Representatives, in General Court assembled, and by the authority of the same, That if any person or persons belonging to or residing within this State and under the protection of its laws shall levy war against the State or government thereof, or knowingly and willingly shall aid or assist any enemies at open war against this State, or the United States of America, by joining their armies or by inlisting or procuring or perswading others to inlist for that purpose, or by furnishing such enemies with arms or amunition, provision or any other articles for their aid or comfort, or by carrying on a treacherous correspondence with them, or shall form or be in any way concerned in forming any combination, plott, or conspiracy for betraying this State or of the United States into the hands or power of any foreign enemy, or shall give or attempt to give or send any intelligence to the enemies of this State for that purpose, every person so offending and being thereof convicted shall suffer death.

And be it further enacted by the authority aforesaid, That if any person or persons shall endeavour to join the enemies of this State or of the United States, or use their influence to perswade or induce any person or persons to join, aid, comfort or assist them in any way or manner whatsoever, or shall have knowledge of any person or persons endeavouring or using their influence aforesaid, and shall conceal the same, shall be punished by fine according to the nature of his offence, and shall be imprisoned at the judgment of the superior court, in any of the goals in this State, not exceeding ten years.

An Act for prescribing and enjoining an Oath of Fidelity to the State.

Whereas the King of Great Britain hath abdicated the government of this and the other United States of America by putting them out of his protection, and unjustly levying war against them, and the said United States by their representatives in General Congress assembled, by a Declaration bearing date the fourth day of July, one thousand seven hundred and seventy-six, for the reasons therein mentioned solemnly declared that the united Colonies of North America are and of right ought to be free and independent States, and that they are absolved from all allegiance to the British crown, and that all political connection between them

and the State of Great Britain is and ought to be totally dissolved; which Declaration is approved by this Assembly: Wherefore it is expedient, for the security of this State, that an oath of fidelity be taken by the freemen and officers thereof:

Be it enacted by the Governor, Council and Representatives, in General Court assembled, and by the authority of the same, That all the members of the General Assembly and other officers civil and military, and freemen within the State of Connecticut, shall take the following oath, viz: You A. B. do swear by the ever-living God that you will truly and faithfully adhere to and maintain the government established in this State under the authority of the people, agreeable to the laws in force within the same; and that you believe in your conscience that the King of Great Britain hath not, nor of right ought to have, any authority or dominion in or over this State; and that you do not hold yourself bound to yield any allegiance or obedience to him within the same; and that you will, to the utmost of your power, maintain and defend the freedom, independence, and privileges of this State against all open enemies or traiterous conspiracies whatsoever: So help you God. And no person shall have authority to execute any of the offices aforesaid after the first day of January next untill he hath taken said oath; and all persons who hereafter shall be appointed to any of said offices shall take said oath before they enter on the execution of their offices. And no freeman within this State shall be allowed to vote in the election of any of the officers of government untill he hath taken the aforesaid oath in the open freeman's meeting in the town where he dwells; and the names of all the freemen who take said oath shall be inrolled by the town clerk in the records of the town; which oath shall be administered by a magistrate or justice of the peace.[186]

At the close of the final chapter of this volume is a Table of Dates, which covers events of importance both in England and America. It is hoped that they will be found worth study as thus arranged; the facts being stated without comment.

[186] Records of the State of Connecticut, I, 3–5.

TABLE OF DATES

1584 Raleigh's colony in Virginia.
1614 Dutch settlement in New Amsterdam.
1620 Slaves imported into Virginia.
November 3. Grant of the Plymouth patent.
December 21. The landing from the Mayflower.
1629 March 4. The Winthrop patent for planting the Colony of Massachusetts Bay.
The beginning of the eleven years suspension of Parliament.
1630 January. Grant of the Warwick patent.
1631 March 19. Deed from the Earl of Warwick for the patentees of Plymouth to the patentees of Saybrook.
1635 July 7. John Winthrop, Jr., appointed Governor of the Saybrook plantation.
1636 March 3. Massachusetts commission for emigration to Connecticut.
1639 January 14. Adoption in Connecticut of its Fundamental Orders.
June 4. Adoption in New Haven of its Fundamental Agreement for organizing the church. The Fundamental Orders of Quinnipiack adopted.
1640 Long Parliament met.
1642 Civil War begun.
1643 September 7. The New England Confederation formed.
1644 Purchase by Connecticut of the Saybrook settlement.
1648 Peace of Westphalia.
1649 Charles I beheaded.
1650 Treaty of Hartford.
1652 Cromwell becomes Lord Protector.
1658 Death of Cromwell.
1660 Restoration of monarchy.
1662 Charter of Connecticut granted.
1663 Rhode Island charter granted.
Elliot's Indian Bible published.
1667 Peace of Breda: New York ceded to England.
1673 First Act passed.
1675 King Philip's War.
1676 Edmund Randolph arrives.
1686 Sir Edmund Andros appointed Governor of New England.
1687 Royal Court of High Commission.

1689 Accession of William and Mary.
Sir Edmund Andros deposed.
1713 Peace of Utrecht.
1763 Peace of Paris.
1774 Continental Congress meets at Philadelphia.
1776 July 4. Declaration of Independence.

CONSTITUTIONAL CONVENTION OF 1902

By John H. Perry

Lawyer; born Southport, Connecticut, July 26, 1848; son Oliver Henry and Harriet Eliza (Hoyt) P.; B.A., Yale, 1870, M.A., 1873; LL.B., Columbia, 1872; married Frances Virginia Bulkley of Southport, September 23, 1874; member of firm of Ferry, Woodward & Perry, Norwalk, Connecticut, 1872–1886, Woodward & Perry, 1886–1887, Perry & Perry, Bridgeport, 1887–1889; judge Court of Common Pleas, 1889–1893; member Perry, Perry & Hill, Bridgeport, 1893–1902 (retired); president Southport Savings Bank, etc.; formerly instructor evidence and contracts and lecturer on parliamentary law, Yale Law School; member Connecticut House of Representatives, 1877, 1878, 1881, 1889 (speaker 1889); member Connecticut Senate, 1913–1915; first vice-president Connecticut Constitutional Convention, 1902; trustee Hartford Seminary Foundation; president Pequot Library Association; president Fairfield Historical Society; Republican; Congregationalist. Clubs: Yale, (New York), University (Bridgeport), Graduates (New Haven). Address: Southport, Connecticut.

THE constitutional history of Connecticut properly begins with the adoption on the 14th day of January, 1638–9 of "The Fundamental Orders" by which the "Inhabitants and Residents of Windsor, Hartford and Wethersfield" became "associated and conjoined to be as One Public State or Commonwealth for the establishment of an orderly and decent government according to God to order and dispose of the affairs of the people as occasion shall require."

Inasmuch as the constitutional question which has been discussed with increasing ardor down to the present day and was the principal bone of contention in our last convention relates to the representation of the different towns in the General Assembly—or General Court as it was originally called—it is interesting to note that these Fundamental Orders, the first written constitution in the English language known to history, decreed that Windsor, Hartford and Wethersfield might each send four deputies but that towns thereafter created should send "so many deputies as the Court shall judge meet, a reasonable proportion to the number of Freemen that are in the said towns," and it is further interesting to note that the practice and purpose of the General Court thus to be constituted, which was therein declared to be "to agitate the affairs of the Commonwealth," has remained unchanged through the intervening centuries.

A greatly abridged recapitulation of the constitutional experiences of Connecticut between 1639 and 1902 may well constitute the background for a picture of the convention of the latter year.

The right to alter or add to the Fundamental Orders, though not explicitly affirmed, was understood to re-

main with the freemen in General Court assembled and was repeatedly exercised by them between 1639 and 1662.

The charter procured from Charles the Second (April 23, 1662) was not regarded as a grant of new powers but as a formal recognition of the Government already established by the people and a confirmation of the rights and privileges they had exercised from the first, and the supreme power of the Commonwealth was made to consist, as before, in the General Court. The first draft of the instrument was in fact prepared by that body.

When the American Colonies declared their independence of Great Britain the royal and provincial governments were thereby dissolved but that of Connecticut remained unchanged. The General Court in October, 1776 —after recording its approval of the Declaration of July 4th and resolving "that this Colony is and of right ought to be a free and independent state and the inhabitants thereof absolved from all allegiance to the British Crown" —declared "that the form of Civil Government in this State shall continue to be as established by Charter received from Charles the Second, King of England, so far as an adherence to the same will be consistent with an absolute Independence of this State on the Crown of Great Britain."

In the Revision of 1784 a similar declaration is incorporated and it is there declared "that the ancient form of Civil Government contained in the Charter from Charles the Second and adopted by the People of this State shall be and remain the Civil Constitution of this State under the sole authority of the People thereof independent of any King or Prince whatever."

Questions soon arose, however, as to whether the State really had what could properly be called a constitution

based upon the claim that such civil constitution as we had under the charter terminated with it and that the General Court could not revive or make a constitution for the people—that this could be done only by the people themselves acting directly to that end. This view was ably presented by Abraham Bishop of New Haven and as ably controverted by David Daggett (later Chief Justice) of the same city. Over this point a controversy, warm at intervals and in spots, waged from 1787 to 1818.

The slogan of the campaign which ended with the election of 1818 was "Constitution and Reform."

Oliver Wolcott was reëlected Governor and it was well understood that the principal business of the Assembly would be to provide for calling a constitutional convention.

This it promptly did and on July 4th, 1818 the electors approved its proposal, ordered the convention and chose delegates thereto.

It was long afterwards publicly stated by one well qualified to judge that "seldom if ever has any body of men so respectable by the character, talents, political experience and good sense of its members been convened in Connecticut."

It included among its members a considerable number of men, seventeen at least, who had been, were or were to be Governors, Senators of the United States, Representatives in Congress, chief justices of the State, judges of its higher courts and of courts of the United States and Speakers of its House of Representatives.

Oliver Wolcott of Litchfield was elected president, which fact is mentioned merely to note its coincidence with the choice of Charles B. Andrews of the same town, an Ex-governor, as president of the Convention of 1902.

The Convention of 1818 finally formulated a Constitution which was submitted to the electors and adopted by them on the 5th of October in that year.

What was undoubtedly true of the product of the convention of 1902 seems to have been equally true of the product of that of 1818 about which a contemporary editor wrote: "We can say with truth that many of the members with whom we have conversed dislike it and, though they voted for it as a choice of evils, did not consider themselves pledged to support it."

In passing it may be of interest to record that the "Hartford Times" was established in January, 1817 by John M. Niles and others to promote that which had now been brought to pass.

The Constitution thus formulated and adopted with the amendments since ratified is the one under which we are now living.

The question of representation both in the Senate and the House has probably led to more debate than any other constitutional question and possibly to more than all others combined. It began long before 1818 and, while temporarily quieted then, came to life again later and was as clamorous as ever in 1901.

During the intervening years a few bits of substantial land in the guise of amendments had managed to rise through the ocean-like welter of discussion and stay above the surface; but like the similarly rising Galapagos Islands in the actual sea they were occupied largely by strange and invertebrate inhabitants.

Between 1818 and 1901 only six amendments relating to representation had won through. They were the first three, the fifteenth, eighteenth and thirty-first. They were too harmless to justify attack. The ground behind was

strewn with the corpses of their more worth while comrades.

The session of 1901 found the State composed of one hundred and sixty-eight towns, of which eighty-seven sent to the lower house two Representatives each and eighty-one half that number. It was entirely possible for less than twenty per cent of the people of Connecticut to elect a clear majority of both branches of its General Assembly and so secure absolute control of the entire State government. Some towns having a voting population of barely 100 sent two Representatives, while towns having more than ten times as large an electorate were entitled to but one. Hamden was confined to one. Fifty-one towns having less population sent two.

Confronted by these facts, conscious of the feelings of our citizens engendered by them and himself possessed of a mind with singular clarity of vision, Governor George P. McLean sent to the General Assembly of that year a message, unsurpassed in our legislative history for classic diction, stating the situation and urging the members, if upon careful and unprejudiced deliberation they became convinced, as he was convinced, that a fair reapportionment of the representation in the coordinate branches of the General Assembly was due to and greatly desired by a large majority of the people of the State, to propose the necessary remedial measures. He favored the usual method of amendment and opposed a convention.

Three resolutions proposing amendments concerning representation were rejected by the House, and thereupon the Committee on Constitutional Amendments reported an act to provide for the calling of a constitutional convention.

The Governor promptly sent a special message reciting the fact that in his first message he had opposed that method, but "a candid and earnest effort" having been made to secure reapportionment of membership in the usual way he now desired to state that he "considered a constitutional convention far less dangerous to the good of the State than would be an entire failure to give the matter any consideration at all," and in conclusion expressed and emphasized his belief as a loyal citizen of a town with less than 2500 inhabitants that "if the small towns ever lose their right of representation in the General Assembly it will be due to their own refusal to so exercise that right that it can be defended."

The act above referred to was passed and became Chap. 146 of the laws of 1901.

It provided that a vote should be taken by ballot, envelope and check list in each town of the State on the first Monday of October next ensuing to determine whether a convention should or should not be called "for the purpose of framing a form of constitution for the State of Connecticut to be proposed to the electors of the State for their adoption or rejection."

If the vote so to be taken proved to be in favor of a convention, the Governor was directed to call a special election to be held on the first Tuesday after the first Monday of November for the purpose of electing delegates thereto, and each town was to send one delegate possessing the qualifications required for a representative in the General Assembly.

The Convention, if called, was to meet at the Capitol in Hartford on the first Wednesday of January, 1902, which in that year was New Year's day, a day immemorially dedicated to resolutions of improvement but as

immemorially addicted to furnishing material for pavement use in torrid weather.

The delegates, in addition to the honor of occupying positions which for three generations had not been available in our State, were accorded the privileges of immunity from arrest and of untrammeled speech. No wonder its sessions were prolonged.

The act, strangely enough, undertook to prescribe what might and what might not be embodied in the proposed Constitution apparently unmindful of the fact that a proposed Constitution, if finally adopted by the people, might contain anything in the world. The Act, however, undoubtedly had influence with the convention. An anonymous sheet was published and widely circulated through the State before the October election, addressed to "every patriotic citizen of the towns of this Commonwealth," prophesying dire evils if a convention were ordered, giving twelve alleged insuperable objections to one and concluding "Eternal vigilance is the Price of Liberty; VOTE NO!"

At the election the towns of East Haven and Wolcott failed to express an opinion upon the desirability of calling the convention.

The other towns gave 47,317 votes in favor of it and 26,745 opposed.

One hundred and twenty-seven towns out of the one hundred and sixty-six which voted were on the opposing side, but the largest of these cast only 860 votes. Only three towns in Litchfield County favored it, two in Middlesex, one in Tolland and none at all in Windham. Three towns cast two ballots each and three towns one ballot each on that side. Thus was it born.

One hundred and sixty-eight delegates, one from each

town, were duly elected in November and convened at noon of the following New Year's day in the Capitol at Hartford. They were as follows:

ROLL OF DELEGATES

HARTFORD COUNTY

Hartford.....Charles Hopkins Clark
Avon.....Robert J. Holmes
Berlin.....Charles M. Jarvis
Bloomfield.....William Martin Brown
Bristol.....Noble E. Pierce
Burlington.....E. Samuel Gillette
Canton.....Edward H. Sears
East Granby.....Julius G. Dickinson
East Hartford.....Percy S. Bryant
East Windsor.....Howard A. Middleton
Enfield.....Thompson S. Grant
Farmington.....Amasa A. Redfield
Glastonbury.....Henry E. Loomis
Granby.....William C. Case*
Granby.....Theodore M. Maltbie†
Hartland.....George W. Miller
Manchester.....Frank W. Cheney
Marlborough.....Frederick Cooley
New Britain.....Robert J. Vance
Newington.....George E. Churchill
Plainville.....Aquila H. Condell
Rocky Hill.....Owen R. Havens
Simsbury.....Joseph L. Bartlett
Southington.....Marcus H. Holcomb
South Windsor.....Lewis Sperry
Suffield.....Charles C. Bissell
West Hartford.....William H. Hall
Wethersfield.....Stephen F. Willard
Windsor.....D. Ellsworth Phelps
Windsor Locks.....Thomas L. Healy

NEW HAVEN COUNTY

New Haven.....Norris G. Osborn
Waterbury.....Francis P. Guilfoile
Ansonia.....Denis T. Walsh
Beacon Falls.....Adna D. Warner
Bethany.....Samuel R. Woodward
Branford.....Louis A. Fisk
Cheshire.....Alonzo E. Smith
Derby.....Daniel E. McMahon
East Haven.....William K. Stevens
Guilford.....Edward Griswold
Hamden.....James H. Webb
Madison.....John H. Meigs
Meriden.....H. Wales Lines

* Died December 23, 1901. † Elected December 30, 1901.

Middlebury.....George W. Wallace
Milford.....Dumond P. Merwin
Naugatuck.....John H. Whittemore
North Branford.....George L. Ford
North Haven.....Marcus D. Marks
Orange.....Samuel J. Bryant
Oxford.....William O. Davis
Prospect.....David B. Hotchkiss
Seymour.....William H. H. Wooster
Southbury.....Henry B. Russell
Wallingford.....John B. Kendrick
Wolcott.....Evelyn M. Upson
Woodbridge.....G. Halsted Bishop

NEW LONDON COUNTY

New London.....Thomas M. Waller
Norwich.....Frank T. Brown
Bozrah.....E. Judson Miner
Colchester.....Harley P. Buell
East Lyme.....Edwin C. Chipman
Franklin.....J. Henry King
Griswold.....Arthur M. Brown
Groton.....Henry L. Bailey
Lebanon.....Isaac Gillette
Ledyard.....William I. Allyn
Lisbon.....Calvin D. Bromley
Lyme.....James L. Raymond
Montville.....Joseph F. Killeen
North Stonington.....James F. Brown
Old Lyme.....Joseph S. Huntington
Preston.....George A. Frink
Salem.....Alvah Morgan
Sprague.....William J. Riley
Stonington.....Frank H. Hinckley
Voluntown.....E. Byrron Gallup
Waterford.....Charles A. Gallup

FAIRFIELD COUNTY

Bridgeport.....Daniel Davenport
Danbury.....Eugene C. Dempsey
Bethel.....Howard H. Woodman
Brookfield.....Elmer H. Northrop
Darien.....Thaddeus Bell
Easton.....Edgar G. Jennings
Fairfield.....John H. Perry
Greenwich.....R. Jay Walsh
Huntington.....Sturges Whitlock
Monroe.....Edwin C. Shelton
New Canaan.....Benjamin P. Mead
New Fairfield.....Homer L. Wanzer
Newtown.....Charles H. Northrop
Norwalk.....Asa B. Woodward
Redding.....Jonathan B. Sanford
Ridgefield.....William O. Seymour
Sherman.....George A. Barnes
Stamford.....Schuyler Merritt
Stratford.....Henry P. Stagg

Trumbull	Ormel Hall
Weston	Frank Gorham
Westport	Rufus Wakeman
Wilton	H. E. Chichester

WINDHAM COUNTY

Windham	Eugene S. Boss
Putnam	Byron D. Bugbee
Ashford	Thomas K. Fitts
Brooklyn	Henry M. Evans
Canterbury	Levi N. Clark
Chaplin	William J. Groesbeck
Eastford	Monroe F. Latham
Hampton	William H. Burnham
Killingly	Aurin P. Somes
Plainfield	Edwin Milner
Pomfret	Thomas O. Elliott
Scotland	Gerald Waldo
Sterling	Claramon Hunt
Thompson	Randolph H. Chandler
Woodstock	George Austin Bowen

LITCHFIELD COUNTY

Litchfield	Charles B. Andrews
Winchester	Wellington B. Smith
New Milford	Charles M. Beach
Barkhamsted	Hubert B. Case
Bethlehem	Abner P. Hayes
Bridgewater	Marcus B. Mallett
Canaan	John H. Belden
Colebrook	Julian H. Smith
Cornwall	Philo M. Kellogg
Goshen	Henry G. Wright
Harwinton	Clarence M. Ely
Kent	Irwin J. Beardsley
Morris	Lyman W. Whittlesey
New Hartford	John Fox Smith
Norfolk	William O'Connor
North Canaan	Charles W. Camp
Plymouth	Charles H. Smith
Roxbury	George R. Crofut
Salisbury	Donald T. Warner
Sharon	George S. Kirby
Thomaston	Frank W. Etheridge
Torrington	Orsamus R. Fyler
Warren	Noble B. Strong
Washington	John C. Brinsmade
Watertown	Augustus N. Woolson
Woodbury	Horace D. Curtiss

MIDDLESEX COUNTY

Middletown	D. Ward Northrop
Haddam	George M. Clark
Chatham	William N. Markham
Chester	Wilbur A. Brothwell
Clinton	Charles A. Pelton
Cromwell	Edward S. Coe
Durham	Frederic P. Hubbard

East Haddam.....Albert E. Purple
Essex.....George H. Blake
Killingworth.....Lauren L. Nettleton
Middlefield.....Fred W. Terrill
Old Saybrook.....William H. Smith
Portland.....Asaph H. Hale
Saybrook.....Frederick L'Hommedieu
Westbrook.....Theodore D. Post

TOLLAND COUNTY

Tolland.....Loren Newcomb
Andover.....Elliot P. Skinner
Bolton.....J. White Sumner
Columbia.....William A. Collins
Coventry.....Alexander S. Hawkins
Ellington.....Francis M. Charter
Hebron.....Marshall Porter
Mansfield.....Ralph W. Storrs
Somers.....George E. Keeney
Stafford.....Edwin C. Pinney
Union.....Milton H. Kinney
Vernon.....Charles Phelps
Willington.....William H. Hall

A convention composed of such men need not fear comparison in any particular with that of 1818. The State, realizing the importance of the task in hand, had committed it to the best citizens it possessed.

Charles B. Andrews had been Governor of the State and, by reason of the age limit, was just leaving the position of Chief Justice which he had held for twelve years —easily the first citizen of the Commonwealth.

Thomas M. Waller of New London had been Governor of the State and consul general of the United States in London and was a widely known lawyer at the time.

Marcus H. Holcomb was the delegate from Southington. Speaking but seldom at the sessions and making friends day by day, his exceptional good judgment was soon recognized and when he did speak conviction followed.

No member at the end enjoyed the respect of his associates more fully than did he. Five years afterwards

he was elected attorney general; before that term ended he was appointed judge of the Superior Court and in 1913 while still a judge was compelled by his fellow citizens to become their Governor in spite of his strongly expressed desire to the contrary. The World War soon began, and during its continuance and for two years after its conclusion, having won national recognition for his unusual intelligence and efficiency, the people of the State bade him hold on—a record for continuance in that office unparalleled since the days of the rebellion. He stands today an equal in that great trio of Connecticut war Governors, Jonathan Trumbull, William A. Buckingham and Marcus H. Holcomb.

Charles Phelps of Vernon was the attorney general of Connecticut and had been Secretary of State. Schuyler Merritt of Stamford showed abilities and traits of character during the session, which at the next vacancy made him Congressman for Fairfield County. Charles H. Clark of Hartford and Norris G. Osborn of New Haven were the leading editors of the State and its best known citizens. Dulness fled at their approach. There were twenty-one prominent lawyers in the body. Of these Lewis Sperry of South Windsor had been Congressman from the first district for two terms. Donald T. Warner of Salisbury had been for many years state's attorney for Litchfield County and he and James H. Webb of Hamden came to be judges of the Superior Court. Arthur M. Brown of Griswold became state's attorney for New London County, of which county Frank T. Brown of Norwich was in 1902 the leading lawyer. D. Ward Northrop of Middletown and R. Jay Walsh of Greenwich had been Secretaries of State.

Thompson S. Grant of Enfield and Benjamin S. Mead of New Canaan had been comptrollers.

Many of the leading and internationally known manufacturers of the State were members. Examples of these would be John H. Whittemore of Naugatuck, the Croesus of the body, Frank W. Cheney of Manchester, Edward H. Sears of Canton and Eugene S. Boss of Windham.

Orsamus R. Fyler of Torrington and William O. Seymour of Ridgefield were members of the then State Railroad Commission, the predecessor of the present Public Utilities Commission.

Side by side with the famous professional men, with the monarchs of business and with the holders of high official position were seated leaders in the purely intellectual efforts of the State, such as John C. Brinsmade, head of the famous Gunnery School in the town of Washington, as well as cultured and successful agriculturists like Gerald Waldo of Scotland.

In short, the roll of the Convention was a chapter out of the heart of the Blue Book of the State.

Charles B. Andrews, Ex-governor and ex-chief justice as before noted, was unanimously chosen president and so history consented to repeat itself for Litchfield's sake, John H. Perry of Fairfield became first vice president and Thomas M. Waller of New London, also an Ex-governor, second vice president.

Rev. William Martin Brown of Bloomfield and Rev. Charles H. Smith of Plymouth, both members of the Convention, were chosen chaplains. Frank E. Healy of Windsor Locks was chosen clerk and George E. Hinman of Windham, assistant clerk. They each became afterwards attorney general. The Hon. Abiram Cham-

berlain, then state comptroller, and in 1903 Governor, had caused three most helpful pamphlets to be made ready for the use of the members, one a reprint of the Journal of the Convention of 1818, with notes by Charles J. Hoadly; one a reprint of notes by J. Hammond Trumbull, prepared in 1861 on the constitutions of Connecticut and the convention aforesaid, and a third containing the Fundamental Orders, the Charter, the Constitution as it existed in 1901 (prepared by Delegate Lewis Sperry of South Windsor) the roll of delegates to the Convention of 1902 and much invaluable information concerning the 168 towns in the State, their population and their representation in the General Assembly. During the first few days of the convention the parliamentary bell tolled almost constantly for the death of resolutions fondly believed by their movers to be wisdom incarnate. Gradually, however, the army fell into step and real progress began. On the third day the convention voted to confine its consideration of the Constitution and proposed changes in it to the composition of the Senate and House of Representatives until that subject was settled. On the following day it was voted that the subject next above referred to be first considered in committee of the whole, which was a parliamentary practice theretofore untried in Connecticut and proved to be a distinguishing and most helpful feature of the convention.

The president designated the first vice president to preside at the sessions of this committee.

Resolutions containing proposals to be embodied in the Constitution were first presented in the convention and by it referred to the committee. The sessions of the convention were short, those of the committee long, for the ordinary rules of parliamentary law are greatly re-

laxed in committee of the whole and members may speak as often as they can get the floor and as long as they choose while the "previous question" is unknown. The result was inevitable but not to be regretted, and the convention continued its unfenced discussion of that for which it was assembled until the 20th of March, when that method of conducting its business seemed to have fully served its purpose and the convention thereupon resumed the ordinary course of procedure, but still without noticeable dearth of declamation.

The sessions of the body in whatever capacity it sat were marked from the outset by great personal friendliness and courtesy but world-wide diversity of conviction. There were no bosses and no unquestioning followers in its membership. Addresses were made from time to time which were absorbingly interesting. Daniel Davenport of Bridgeport was afflicted with a memory which could not rid itself of any information ever heard or read, but blessed with a delightful facility for imparting it, and it was a source of great and frequently expressed regret that his description of the early history of the different towns in our commonwealth was given before a stenographer was present.

One of the features of the session was "the Litchfield County Caucus." The 26 members from that county, where political methods have long flavored the children's milk, early gravitated into a daily caucus, and when Mr. Warner of Salisbury spoke his was known to be the condensation of more than a score of voices. The daily roll-call was at first dispensed with, but the opinion that it should be known who were present and attending to their task gradually accumulated and from and after February

19th the roll-call was resumed. The absence of a quorum, however, was the least trouble of the convention.

Individual viewpoints, bravely held and frequently voiced, abounded. For instance, Mr. Fisk of Branford persistently thought that each town should be its own legislature and Mr. Walsh of Ansonia with equal persistency claimed that labor should be constitutionally protected against the courts. Certain of the members also had individual forms of expression or rules of conduct which interested their associates. For instance, George M. Clark of Haddam was fond of exhorting the assembly to "watch the footprints on the wall" and Wellington B. Smith of Winchester rising in his place would always carefully unbutton his cuffs and put them on his desk before proceeding to instruct the convention as to its duties. Almost every vote was taken by yeas and nays. The stand of each member upon all the questions of importance which were passed upon need not be doubted for a moment. Roll-calls fill the journal. For many months the clerk spent most of his time in their company. When starting a conversation in other places and on other subjects he would often unwittingly begin: "Hartford County, Mr. Clark."

The all-absorbing subject was of course the representation in the House and the size and composition of the Senate. The varying views were almost legion, but they were necessarily divided into two classes.

One class called for a House in which the towns should be represented strictly as such, irrespective of their population, as the states are represented in our National Senate; while population as such should be represented in the Senate as it is in our National House.

The other class called for a definite regard for popula-

tion in the composition of the House and a definite regard for geography in the composition of the Senate. In the propositions as brought forward from day to day each of these classes shaded off by countless steps into the other.

After an unstinted advocacy of and attack upon these several propositions, the convention on March 12th by a vote of 84 to 75 adopted the plan of one representative from each town, and by a vote of 101 to 56 a Senate of 60 members representing districts of as nearly equal population as possible consisting of contiguous territory in which no town should be divided except to make more than one district wholly within its borders. The impropriety of permitting a Senatorial district to cross the line which limited the services of a jail had however been overlooked, and besides that the whole plan adopted as above was too logically defensible to successfully fraternize with practical politics and died in early childhood from the contact.

On May 1st a notable committee of 24, with the president as chairman, was appointed to formulate some plan of representation which would probably meet the lasting approval of the Convention.

This committee on May 8th reported that it was unable to perform the task intrusted to it, and amid much discouragement the wearying effort to find some solution of the problem began afresh. Meanwhile much progress had been made with other portions of the Constitution. The province of a jury in defaulted cases, the pay of legislators, whether members of the assembly should be eligible to receive honorable or lucrative appointments to public office during the term for which they had been elected, the religious question and the right to veto por-

tions of a bill enacted were among the matters which had caused the most debate.

The following proposals which failed of ultimate approval are however sufficiently interesting to be noted in passing:

That the Senate should be known as the Court of the People and the House as the Court of the Towns.

That the Senatorial districts should be determined by the votes cast at some specified election (or in other words by those who politically cared) rather than by population (or by those who politically did not care).

That the membership of the House should consist of one from each town and one from each Senatorial district.

That the proposed Constitution might be approved by the electors in part and disapproved in part and so supplant the old Constitution only to the extent that it was thus approved.

That the membership was divided between persons with aesthetic preferences and persons who knew a spade by no other name is shown by the fact that a strongly advocated resolution compensating the "tonsorial artist" who had maintained a studio in the cloak room was finally amended to read "barber."

After the committee of 24 had reported on May 8th a determination to quickly arrive—or abandon hope of ever arriving—at an agreement upon the question of representation became evident. Whether the succeeding efforts of the delegates were actuated by a determination that the towns which they represented should keep what

they had, or by a determination that they should get what they deserved, or by a desire to bring about some system of proportionate fairness is not easy to decide. Three more days of the session remained and the first two saw a perfect welter of proposals advanced and rejected. Near the close of the second day Mr. Bissell of Suffield proposed the rule of composition for the House and Senate which on the next and final day was adopted by a vote of 88 to 66. It did not differ materially from others which had come to the surface throughout the session and was not satisfactory to many who voted for it, but the members were tired and wanted to go home.

The "Committee on Style" then perfected the whole instrument as to phraseology and arrangement and, as reported by them on the afternoon of May 15th, it was adopted by a vote of 94 in the affirmation against 50 in the negative, with 24 delegates absent or not voting.

Both the cities and the small towns impartially contributed the negative votes. Hartford County gave the most affirmative votes. New Haven County the most negative.

The Convention then voted that the Constitution as thus proposed by it should be submitted to the electors on June 16th for their approval or disapproval and that copies of it should first be sent to all the towns for distribution among the voters. It then adjourned after authorizing the comptroller to purchase two transcripts of certain stenographic notes which had been kept of its proceedings, one to be filed with the Secretary of State and the other in the State Library.

Thus began, continued and ended the Constitutional Convention of 1902.

The State at large has long since forgotten the work therein performed—which by no means proves its lack

of merit—but those who participated in it can never forget their labors there or the associates with whom they performed them.

Men of finer character, of greater ability, of more patriotic purpose or of more attractive traits never lived, and to have been one of them is an enviable distinction. They loved each other while they differed and the mutual affection of the survivors continues to the present day.

The Constitution proposed by them differed both in form and substance from the existing one. The unchanged provisions of the old instrument were greatly improved in their phraseology and arrangement and the following new provisions were added:

That no citizen should be deprived of any right or privilege or exempted from any obligation on account of race or color.

That the towns should be represented in the lower house as follows: Those having a population of less than two thousand by one representative. Those with two but less than fifty thousand by two representatives. Those with fifty but less than one hundred thousand by three representatives. Those with one hundred thousand or more by four representatives and one additional representative for each fifty thousand of population in excess of one hundred thousand.

Each town entitled to more than two representatives to be divided into districts of contiguous territory with populations as nearly equal as possible, each district to send one representative.

That the Senate should consist of forty-five members elected by districts composed of contiguous terri-

tory with as nearly equal population as possible of which districts each county should have at least two and no town should be divided except to make more than one district wholly within it.

That the compensation of members of the General Assembly should be five hundred dollars plus transportation to and from all of its meetings.

That the term of the attorney general should be four years.

That the Governor might retain a bill for ten instead of three days before acting upon it.

That the Governor might approve some items and disapprove others in an act appropriating money.

That judges of Courts of Common Pleas should be nominated by the Governor and hold office for a term of six instead of four years.

That judges of Probate should hold office for a term of four instead of two years.

That the General Assembly might establish a new tribunal to pass upon errors of fact.

That certain persons should not be eligible for membership in the General Assembly.

That no member of the General Assembly during the term for which he was elected should receive a civil appointment or be elected United States Senator.

That no municipality might be authorized to issue bonds which had not been approved by a vote of its electors.

That constitutional amendments might be proposed by either house, and when so proposed should be published with the laws and if approved by a mere

majority vote of each house at the next session, should be submitted to the people.

That no constitutional convention should be again held unless the call for it had been approved by a major vote of the entire electorate.

Before this Constitution was acted on by the electors its merits and demerits were dealt with at great length in the papers of the State.

Among those who thus favored its adoption were the president and first vice president of the convention.

Among those who objected to it were the delegates from New Haven and Bridgeport.

It was claimed in its favor that the changes proposed and above set forth although not going as far as many desired, were manifestly a great improvement upon the existing provisions and could be made more satisfactory by amendment from time to time with far greater facility than before.

It was claimed in opposition to it:

That the cost of the General Assembly had been greatly increased.

That in place of the logical and perfectly defensible plan of giving to each town one representative and creating a Senate which would really represent population a scheme had been adopted which merely tantalized the cities, and

That the calling of future constitutional conventions had been made almost impossible.

This last was probably the most commanding argument of the opposition. It was its conviction that, as in

the State of New York, constitutional conventions should be authorized at definite intervals, not only for the necessary expansion of the organic law as changed social conditions might reasonably demand, but also to create a medium for the education of successive generations in both the history and significance of that law. There was, too, the feeling that the denial of this privilege was an unfair assertion of town exclusiveness.

Few if any state-wide occasions for balloting have brought to the polls as small a number of voters as gathered on June 16th, 1902 to vote upon the new constitution. The electors apparently neither knew nor cared much about it. The "tyrannies" of the existing system had evidently not bitten deeply into their sensibilities. 74,062 voted in the preceding October upon the question of calling the convention, 31,611 voted on June 16th upon the question of gathering its fruit.

47,317 wanted the convention held, 21,234 then slapped it in the face.

The majority in favor of calling it was 20,572. The majority against the acceptance of its product was 10,857.

Of this majority the cities contributed less than 9,000. The little towns were quite as hostile. In New Haven, the largest of our towns, out of 25,590 voters, 1,956 or 1 in 13, voted NO. In Union, the smallest town sending two representatives, out of 102 voters 23, or 1 in 4½, voted NO; and in Marlborough, the smallest town sending one representative, out of 86 voters 22, or 1 in 4, voted similarly.

Those who at the request of their state at great inconvenience and with marked personal sacrifice for four and one-half months gave of the best they had for her improvement justly felt that their services had received

at her hands extremely inadequate appreciation. It was the lack of voting not its result which grieved them.

When the present method of building what should be a symmetrical and faultless structure from such haphazard material as is found along the way and when found stuck on anywhere, changes for the better and a creditable constitution is really desired by the State that which was tendered to it by the convention herein described may well be taken as a point to start from. Possibly that is the only adequate excuse for detailing as a chapter in this history an incident which excited so little contemporary interest and was so barren of results.